

DEVELOPMENT APPEAL BOARD AGENDA

200-D1-H2-20

Sunday, September 20, 2020

<u>Item No.</u>	<u>Description</u>
1.	Introduction of the Board.
2.	A request for adjournment.
3.	Review by the City Development Officer of issuance of Development Permit No. PL-2019-0182 (4024 School Draw Avenue).
4.	Presentation from the Appellants.
5.	Presentation from the Developer.
6.	Final summation by the Appellants.
7.	Final summation by the Developer.
8.	Final summation by the Development Officer.

Background Documentation

ANNEX A

9. Report from the Development Officer, City of Yellowknife Planning and Lands Division regarding the Appeal.

ANNEX B

10. Letter from the Appellant, Cathy Cudmore, serving notice of appeal – written submission.

ANNEX C

11. Letter from the Appellant, Barb Cameron, serving notice of appeal – written submission.

ANNEX D

12. Letter from the Appellants, Alan and Miki Ehrlich, serving notice of appeal – written submission.

ANNEX E

13. Letter from the Appellants, Pamela Dunbar and David Gilday, serving notice of appeal – written submission.

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ANNEX F

14. Letter from the Appellant, Ann Lynagh, serving notice of appeal – written submission.

ANNEX G

15. Letter from the Appellant, Yellowknife Community Garden Collective, serving notice of appeal – written submission.

ANNEX H

16. Letter from the Appellant, Back Bay Community Association, serving notice of appeal – written submission.

ANNEX I

17. Letter from the Appellants, Gary and Marjorie Maund, serving notice of appeal – written submission.

ANNEX J

18. Letter from the Secretary of the Development Appeal Board to the Appellants with respect to the scheduling of a hearing on September 20, 2020.

ANNEX K

19. Letter from the Secretary of the Development Appeal Board to the Developer, Milan Mrdjenovich, with respect to the scheduling of a hearing on September 20, 2020.

DEVELOPMENT OFFICER'S REPORT (PRESENTATION)



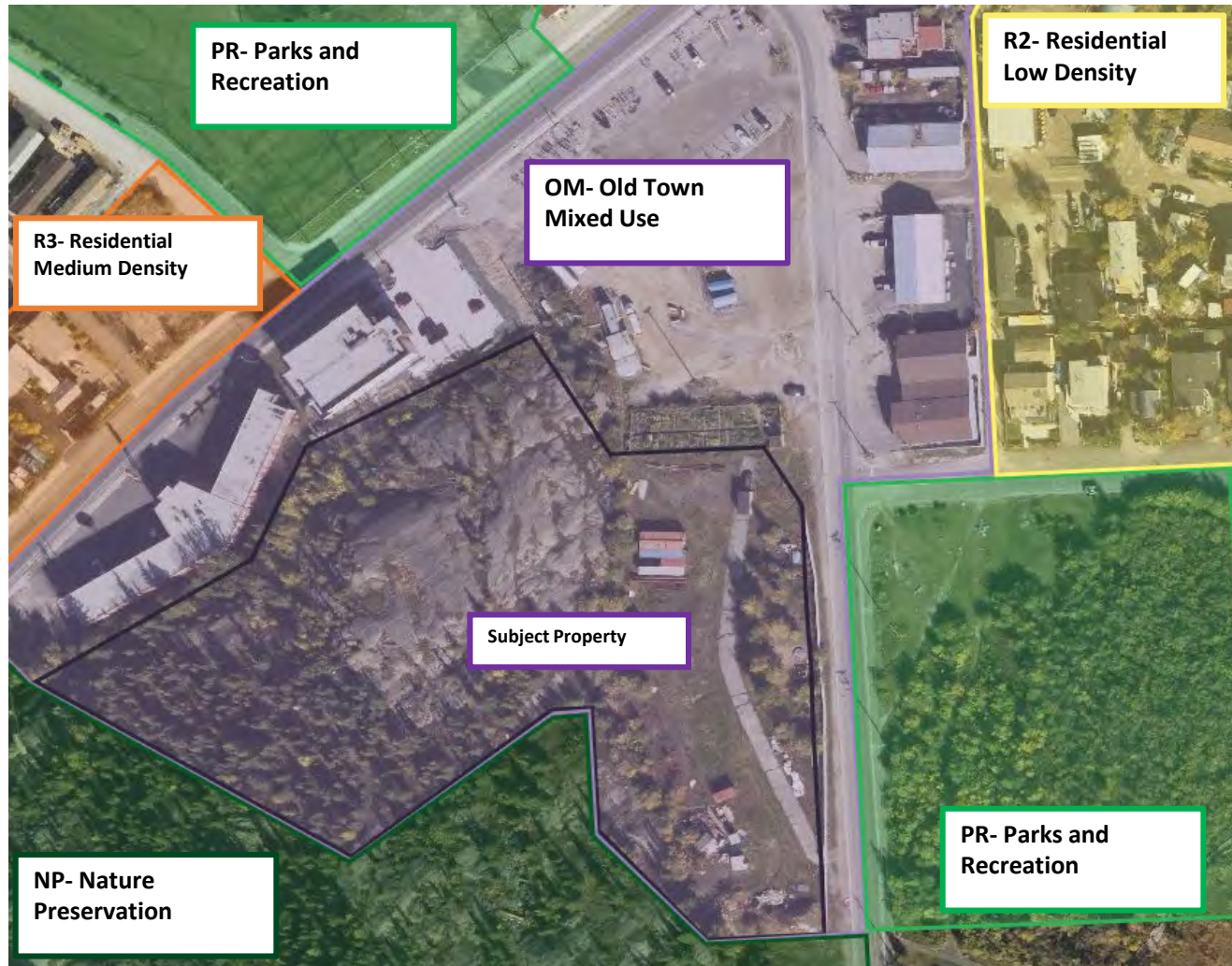
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- Timeline
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 - Zoning By-law No. 4404
- Appellant Concerns

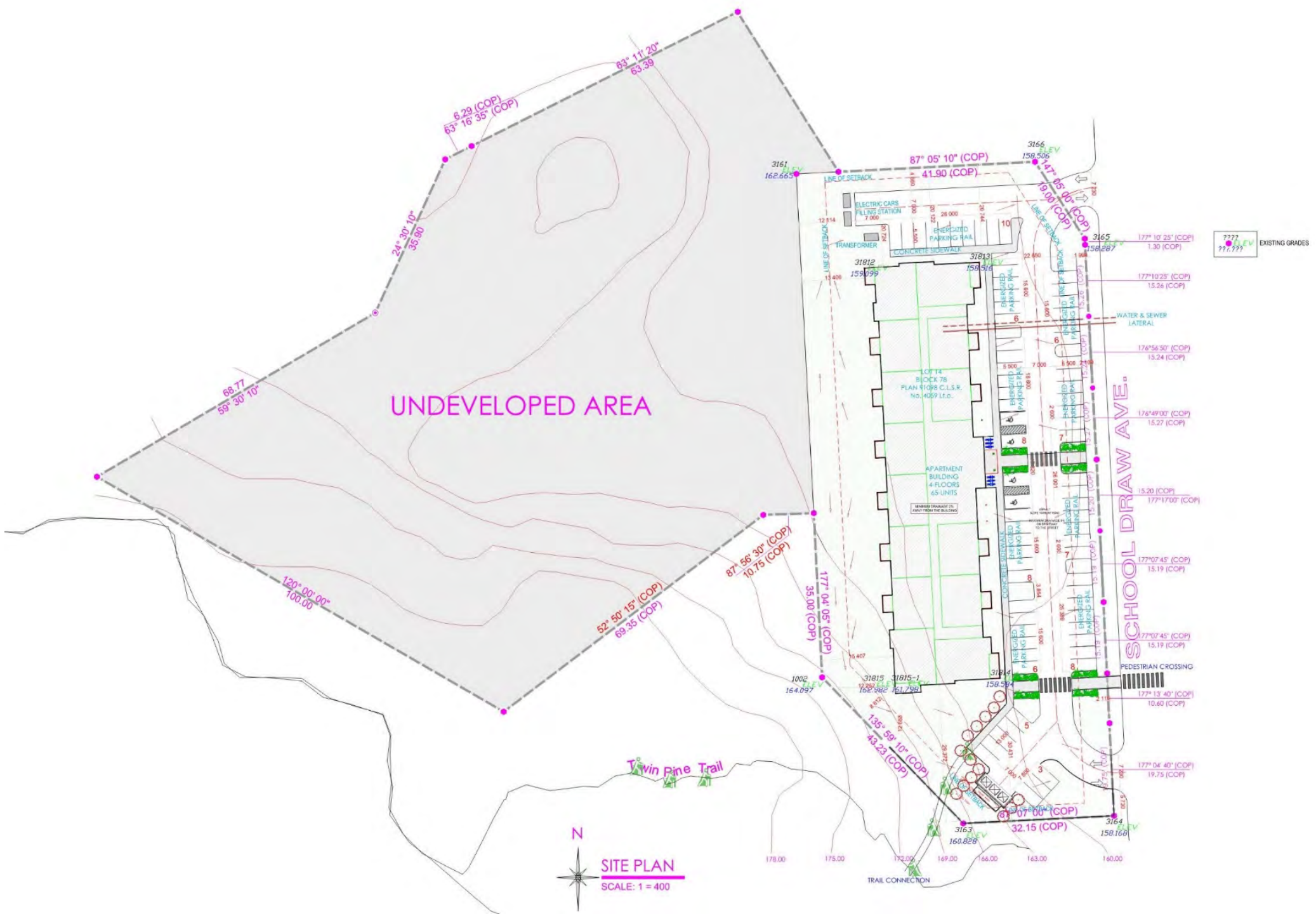
THE ISSUE

An appeal against the decision of the Development Officer to issue development permit PL-2019-0168:
Multi-Family Residential Development for 65 units at 4024 School Draw Avenue (Lot 17 Block 80).

CONTEXT

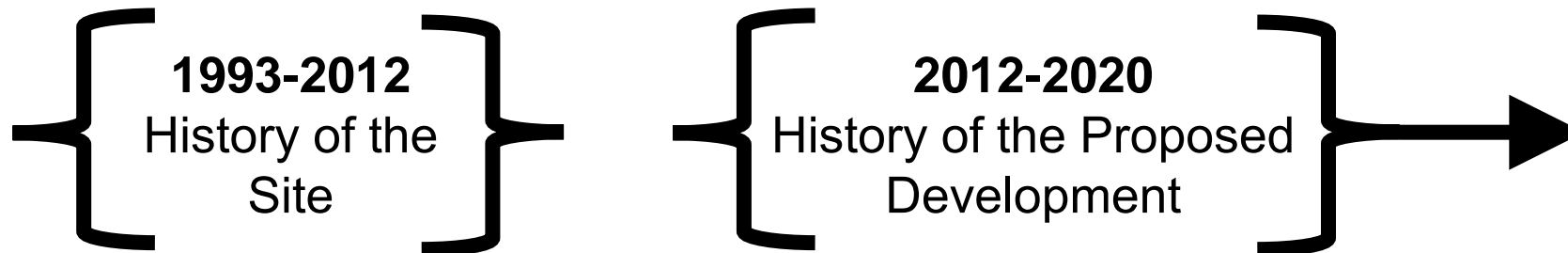


Location of
Development
Permit Appeal



TIMELINE

The history of the subject property spans across a few decades and is very complex and nuanced. Some events have been excluded from the presentation in favour of conciseness.



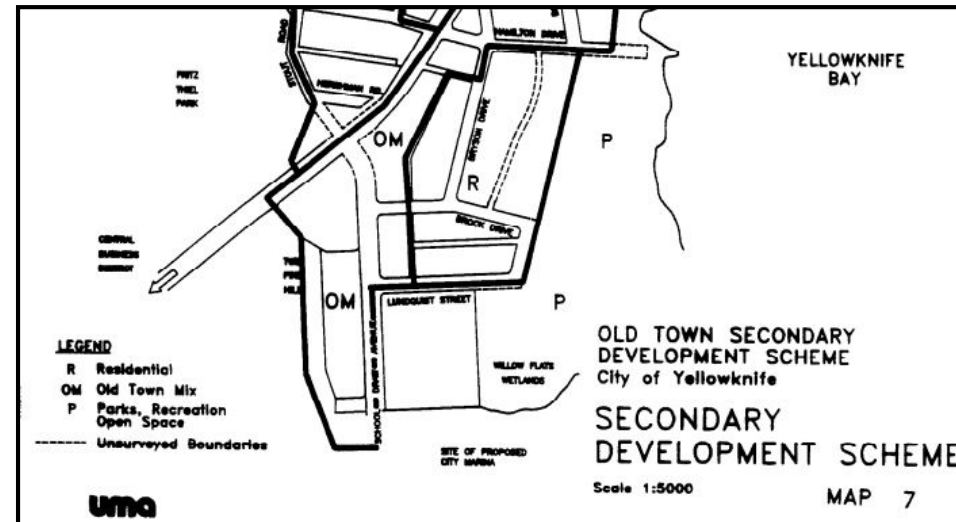
TIMELINE

{ 1993-2012
History of the Site }



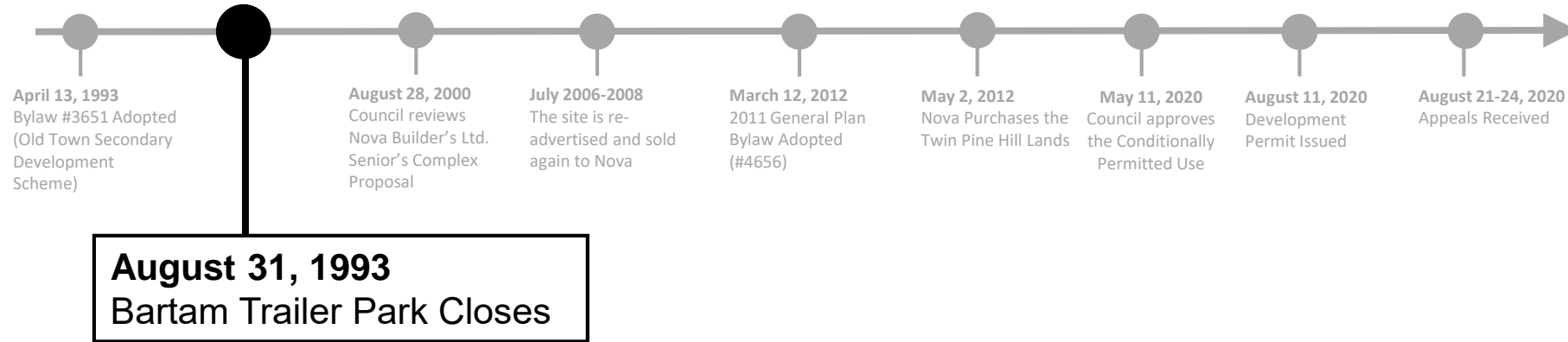
April 13, 1993
Old Town Secondary Development Scheme Adopted (Bylaw #3651)

- The Old Town Secondary Development Scheme Bylaw No. 3651 suggested that the site could include the development of medium/high residential uses, a hotel/motel, or commercial/retail space needed for the marina. **(Appendix A)**



TIMELINE

{ 1993-2012
History of the Site }



- On May 28, 1991, Council adopted a plan to close the Bartam Trailer Park. (Council Motion #0317-91)
- A more intensive use of the Bartam Trailer Park was recommended due to the possibility of a marina being developed.
- Bartam Trailer Park closed with the expiry of the lease on August 31, 1993.

TIMELINE

{ 1993-2012
History of the Site }



August 28, 2000
Council Reviews Nova Builder's Ltd. ("Nova") Senior's Complex Proposal

- In 2000, Council released a Call for Proposals for development of the site.
- On August 28, 2000, Council reviewed Nova's Senior's Complex Proposal.
- There was significant community opposition for the project.
- Council defeated this motion as it would be "premature" to accept the proposal without a comprehensive planning process for the area, and due to the lack of widespread community support. **(Appendix B)**

TIMELINE

{ 1993-2012
History of the Site }

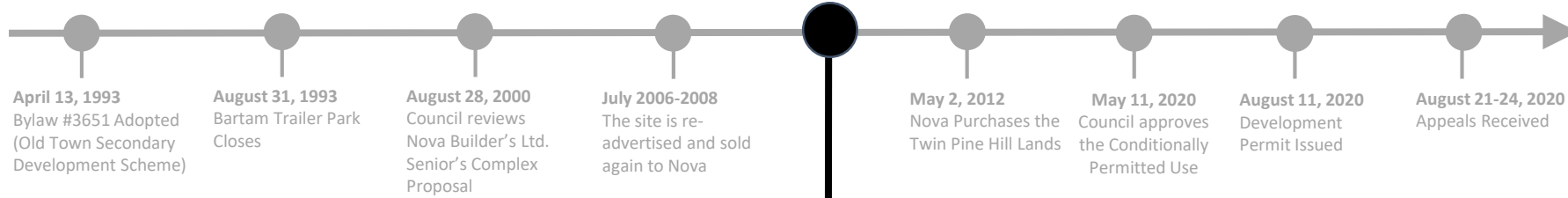


July 2006-2008
The Site is re-advertised and sold again to Nova.

- In 2006, the site is re-advertised and purchased again by Nova and a development of 18 multi-attached dwellings (townhouses) is proposed.
- A geotechnical investigation conducted by Nova indicated that extensive structural pilings would be required for the 18 multi-attached dwellings, making the project financially unfeasible.
- These geotechnical findings are consistent with a municipal study commissioned in 1996 for the site (**Appendix C**).
- Due to these geotechnical findings, the site can only be financially feasible if significant density is allowed.

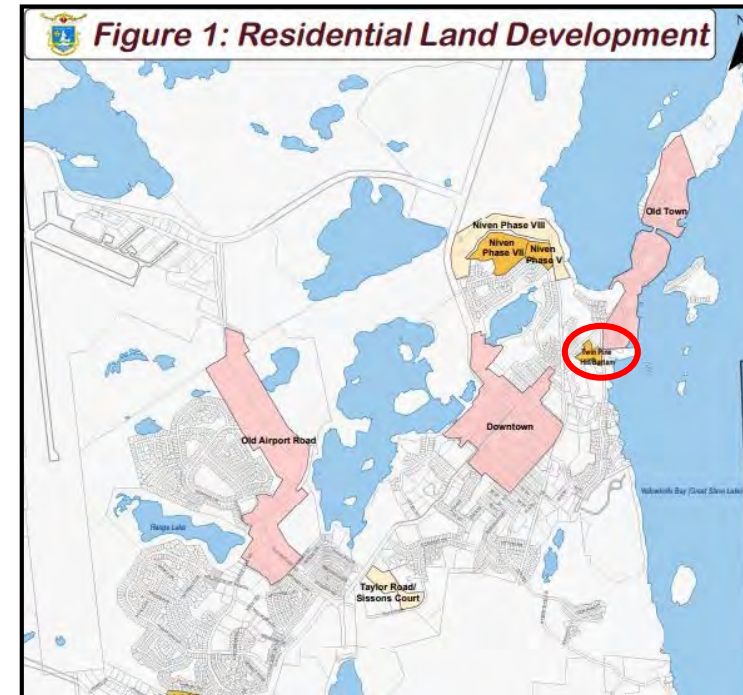
TIMELINE

1993-2012
History of the Site



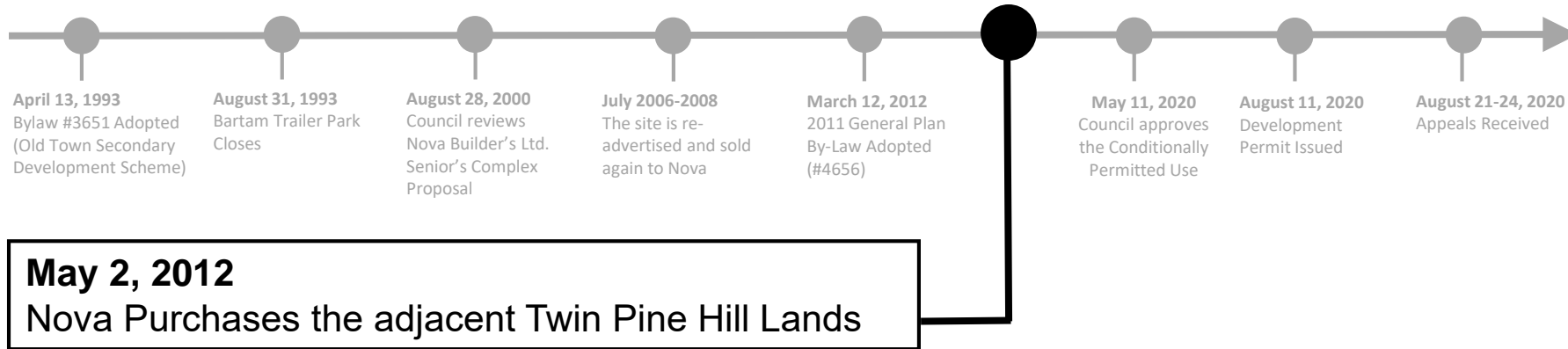
March 12, 2012
2011 General Plan By-law Adopted (#4656).

- In 2012, the 2011 General Plan was adopted by Council.
- The 2011 General Plan review process drew upon extensive public consultation and drew from the Smart Growth Development Plan, which envisions a compact growth scenario (**Appendix D**)
- The Bartam site is identified as a Target Intensification Area suitable for 75 units- the developer has proposed **65 Units. (Appendix D)**



TIMELINE

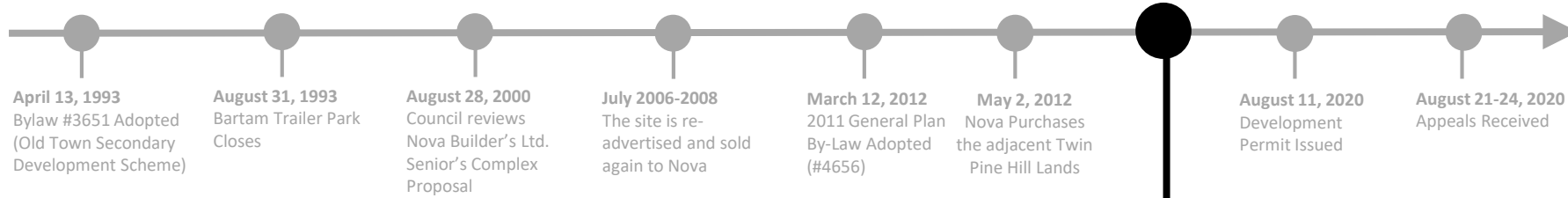
2012-2020
History of the Proposed Development



- By-law No. 4344 gave the City the authority to dispose of Lots 7-10, Block 80, Plan 72; By-law No. 4569 gave the City the authority to dispose of Lot 15, Block 80 Plan 4320; and By-law No. 4666 gave the City the authority to dispose of Lot 13, Block 78 Plan 4059 (**Appendix E**)
- Nova purchased these properties and consolidated them creating Lot 17 Block 80. (**Appendix F**)
- Since this time, Nova have submitted various proposals for development of the site.

TIMELINE

2012-2020
History of the Proposed Development

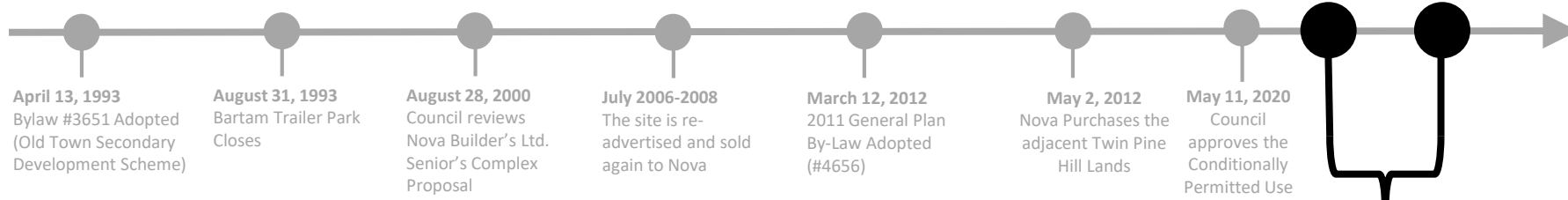


May 11, 2020
Council approves the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a "Similar Use"

- Council approved the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a "Similar Use" to that of a Multi-Attached Dwelling at Lot 17 Block 80 through Council Motion #0074-20 (**Appendix G**)

TIMELINE

{ 2012-2020
History of the Proposed Development }



August 11, 2020
Development Permit Issued

August 21-24, 2020
Appeals Received

RELEVANT LEGISLATION

2011 General Plan By-law No. 4656, as amended

Purpose:

- Set vision for future growth and development
- Provide policy direction

Zoning By-law No. 4404, as amended

Purpose:

- Regulate use and development of land and buildings

Note: The 2020 Community Plan

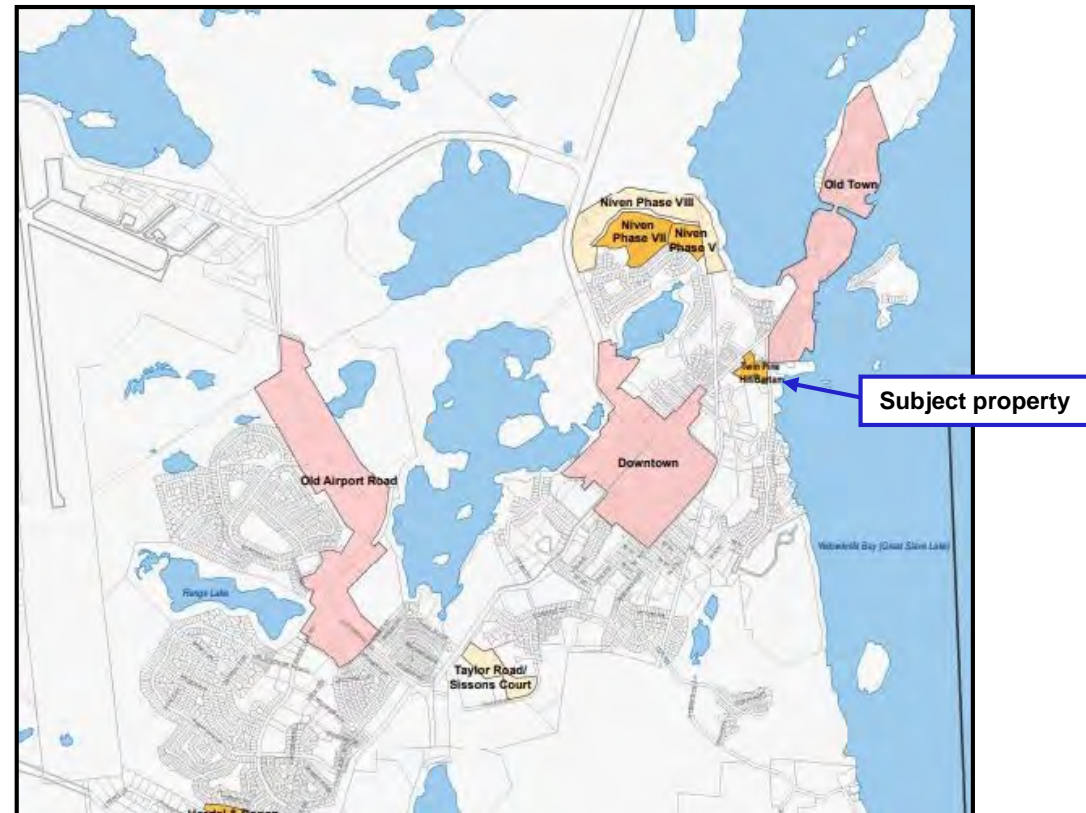
The 2020 Community Plan was considered during the Council process in order to provide a holistic picture of the development in relation to upcoming plans. A decision of approval was not based on the information provided in the 2020 Community Plan as the **submission of the Development Permit pre-dates approval of the Plan.**

RELEVANT LEGISLATION

2011 GENERAL PLAN

Section 2.3.4- Residential Land Development & Development Priority

- Old Town is identified as an “Intensification Target Area”
- The 2011 General Plan supports higher density at Lot 17 Block 80, which is referred to as “Twin Pine Hill/Bartam” in the Plan.
- The site is shown as Development Priority A and identifies it as a suitable location for up to **75 units**.
- The developer has proposed **65 units. (Appendix D)**



Portion of Map 1 from the 2011 General plan, demonstrating Intensification Targets

RELEVANT LEGISLATION

2011 GENERAL PLAN

Section 3.5 Mixed Use Designation

- Applies to areas that have been identified as having a high potential to achieve compact and mixed use developments through redevelopment and intensification
- Identified as the focus of proposed transit-oriented development nodes
- Ideally located to accommodate an increase in housing, commercial, institutional and recreational uses.
(Appendix D)

Section 4.2 Character Areas & Section 4.2.1 Old Town

- The design of the proposed development should reflect the nature of the Old Town Character area while balancing the principles of the Compact Growth Scenario.
- Should respond carefully to the organic and authentic character of the area.
(Appendix D)

RELEVANT LEGISLATION

2011 GENERAL PLAN

Section 5.3 Transit Oriented Development Nodes

- The subject property slightly falls within 120 m of a TOD node.
- Although TOD nodes should have the majority of the property falling under 120 m of a TOD node, when combining these policies with the stipulations in Section 2.3.4; it is reasonable to identify the site as suitable for higher density. **(Appendix D)**



Portion of Map 4 from the 2011 General plan, demonstrating Transit Oriented Development Nodes as stars.

RELEVANT LEGISLATION

How does the Development align with the 2020 Community Plan?

- The 2020 Community Plan was approved July 27, 2020. The analysis of the following sections is to provide a present-day examination of the development against the new Plan. It is for informational purposes only.

Section 3.1.2 General Development Goals

- Prioritize utilization of existing capacity of municipal infrastructure... before adding new capacity
- Increase housing affordability through increased land use flexibility for residential development (**Appendix H**)

Section 5.4 Subdivision and Land Development Sequencing

- Utilize existing infrastructure for land development
- Vacant lots, both City owned and private, within the built area of the City will be prioritized before greenfield development (**Appendix H**)

RELEVANT LEGISLATION

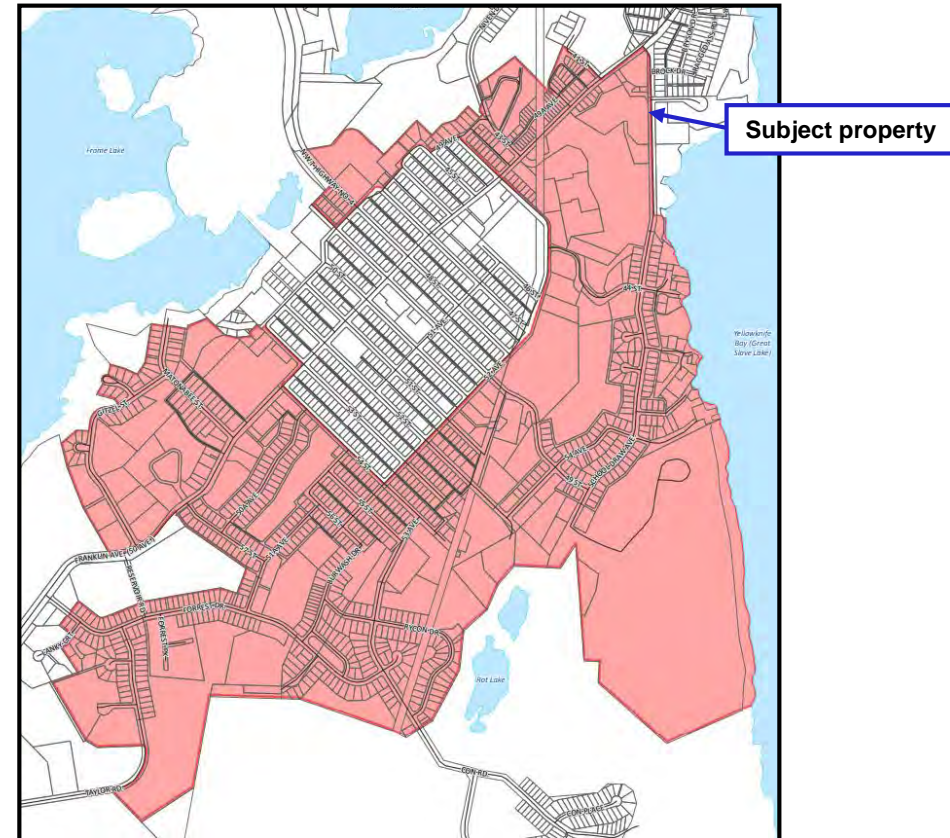
How does the Development align with the 2020 Community Plan?

Section 4.1.2 Central Residential

- The Central Residential area surrounds the Core and is a transition area between the high-density core and other area designations like Old Town.
- Identified as suitable for **higher density residential** and multi-use development through **infill (Appendix H)**

Relevant Objectives

- 3. “High density development adjacent to the City Core Stepping down to medium density”
- 4. “To encourage higher density residential development”
- 5. “To Encourage a variety of housing options” **(Appendix H)**



Portion of Map 4 from the 2020 Community Plan, demonstrating the Central Residential Designation

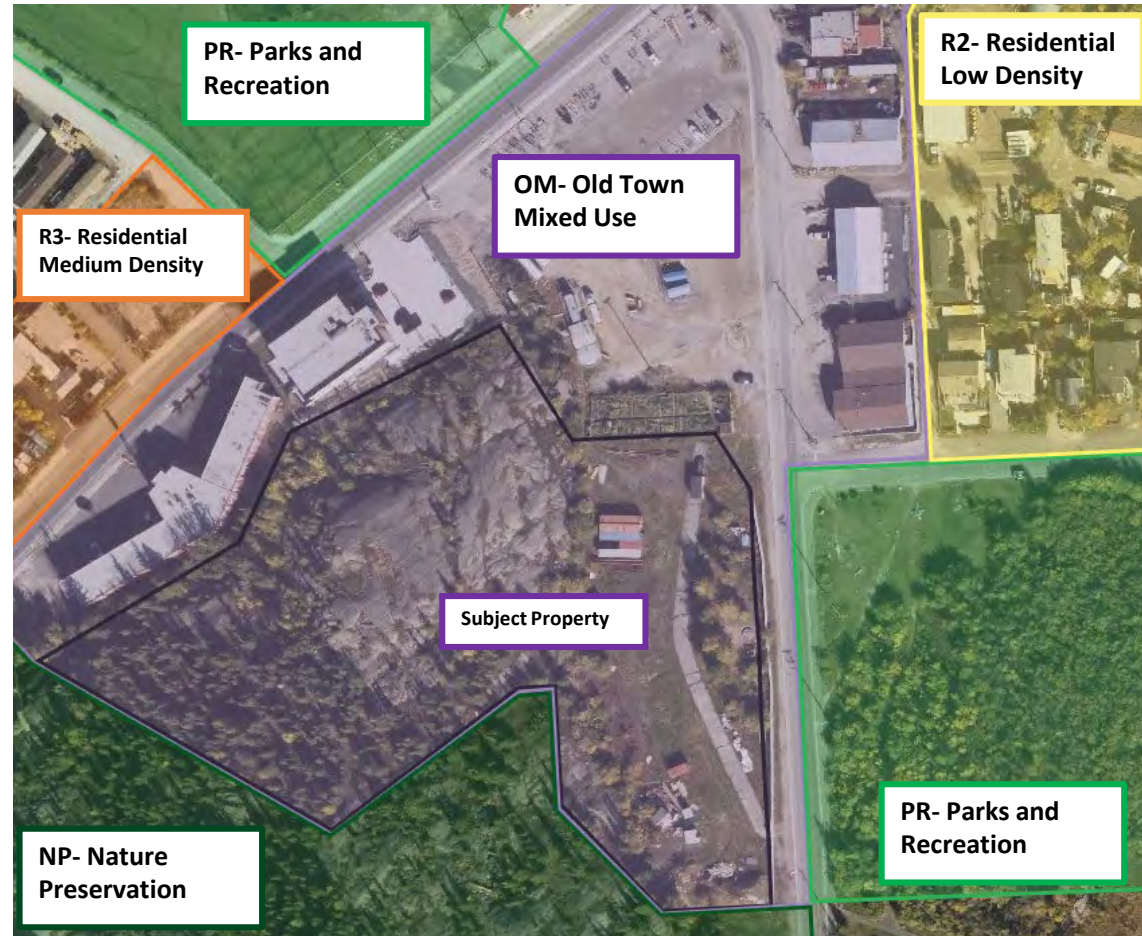
RELEVANT LEGISLATION

ZONING BYLAW NO. 4404

The subject property is zoned **OM- Old Town Mixed Use**. The proposed development is a Multi-family development.

“Similar Use” is a Conditionally Permitted Use in the OM Zone.

Council approved the “Similar Use” through Council Motion #0074-20 (**Appendix G**)



RELEVANT LEGISLATION

ZONING BY-LAW NO. 4404

Section 10.18 OM- Old Town Mixed Use Zone

Regulation	Requirement in Zoning By-law	Proposed
Building Height	Maximum of 10.0 m	45.8% Variance (14.58 m)
Setbacks	Minimum 2m side yard setback	Met (8.53 m; 20.73 m)
	Minimum 6m front yard setback	Met (22.65 m)
	Minimum 6m rear yard setback	Met (15.41 m)
Density <i>Used Density Figures from Section 10.8</i>	225 sq m / dwelling unit (89 Units)	308.3 sq m / dwelling unit (65 Units)
Site Coverage	Maximum of 40%	Met (23.42%)
Parking	Vehicular Parking: 75 Spaces	Met (76 spaces, including 4 accessible spaces and 2 EV Charging Stations)
	Bike parking: 11 spaces	Met (12 spaces)
Landscaping	Minimum 108 trees, 217 shrubs	Exceeded: 115 Trees, 235 Shrubs

RELEVANT LEGISLATION

ZONING BY-LAW NO. 4404

The proposed development is also subject to the following:

- Part 7 – Development Standards
- Section 7.1 Rules Applicable to All Zones
- Section 7.2 Rules Applicable to All Residential Zones
- Section 7.3 Rules Applicable to All Multi-Attached or Multi-Family Dwellings
- Section 8.2 Design Standards for Twin Pine Hill

The Development Officer's Development Permit Technical Review outlines these sections in detail.
(Appendix I)

All relevant provisions within the Zoning By-law have been adhered to or exceeded, with the exception of the height variance:

The Maximum Height has been increased from 10.0 m to 14.58 m (45.8% variance).

RELEVANT LEGISLATION

ZONING BY-LAW NO. 4404

Variance to Maximum Height

Section 3.5 of the Zoning Bylaw outlines the Variance Authority given to a Development Officer. A Development Officer may allow a variance in regard to height.

The Development Officer's Development Permit Technical Review outlines the analysis to this Section in detail. **(Appendix I)**

The Height of the building is **13.82 m**; but 14.58 m was selected **by the developer** to provide flexibility in the **final grade**.



EAST ELEVATION

Scale: 3/32" = 1'-0"

RELEVANT LEGISLATION

ZONING BY-LAW NO. 4404

Variance to Minimum Rear Yard Setback

Requirement for Variance	Requirement Fulfilled?
(a) (i) Amenities of the Neighbourhood	Not expected to unduly interfere with the amenities of the neighbourhood. The variance will not impact trails, sidewalks, roads, or parks.
(a) (ii) Use, Enjoyment or Value of Neighbours	Not expected to affect the use, enjoyment or value of neighbouring parcels of land. Confirmed with a sun shadow study completed by the developer.
(b) Irregular lot lines	✓ Majority of the lot extends irregularly into Twin Pine Hill
(c) Physical Limitations	✓ Physical limitations relating to terrain & topography
(d) Natural Features	✓ Rock outcrops & natural vegetations
(e) Error in Siting	N/A
(f) Use Conforms?	✓ Council Motion #0074-20.

APPELLANT CONCERNS

1. Concerns regarding the Council Decision to grant the development as a “Similar Use” to that of a Multi-Attached Dwelling.
 - a) Outside of Council’s Authority
 - b) Multi-Family is not similar to Multi-Attached
2. Contradiction of the General Plan’s Intensification Compatibility Requirements and Character Area Requirements
 - a) Dissimilar in character to Old Town
 - b) Building is too large
3. Concerns regarding Density
4. Concerns regarding the Height Variance
 - a) Too tall for Old Town
 - b) Blocked Sunlight
5. Zoning Bylaw Concerns
 - a) Traffic, Parking and Pedestrian Access
 - b) Light Impacts
 - c) Loss of Privacy
6. Miscellaneous Concerns
 - a) Blocked view of Twin Pine Hill
 - b) Impact on Neighbourhood Amenities
 - c) Noise & Disturbance
 - d) Not aligned with the 2020 Community Plan

APPELLANT CONCERNS

COUNCIL'S DECISION REGARDING SIMILAR USE

Administration solicited the opinion of in-house legal counsel as well as a Professional Planning Opinion regarding Similar Use. **(Appendix J)**

What is the purpose of a 'Similar Use' Category?

- Zoning Bylaw lists cannot be exhaustive
- Accommodate all the varieties of size, shape, and topography of lots
- Accommodate problems or innovations in construction
- Accommodate individual needs of all potential users and owners of land.
- Mistakes made during the construction process
- The amendment process is procedurally complex, time-consuming, and expensive remedy

Did Council act outside of its authority?

- *The Community Planning & Development Act* Part 2, Section 22 states that “A Zoning Bylaw may authorize a development authority, on an application for a development permit, to determine whether or not a specific use of land or a building, that is not provided for in the bylaw with respect to the zone, is **similar in character and purpose to another use of land** that is included... in the **uses specified in the bylaw for that zone.**”
- Zoning Bylaw No. 4404 Section 2.4 (1) (a) states that Council shall make decisions on Conditionally Permitted Uses.

APPELLANT CONCERNS

COUNCIL'S DECISION REGARDING SIMILAR USE

Are Multi-Family Dwellings similar in character and purpose to Multi-Attached Dwellings?

- Multi-Family means a building or portion of a building containing three or more dwelling units with ***shared entrance facilities***.
- Multi-Attached means a residential building containing three or more dwelling units ***side by side or stacked*** each having a ***separate access to the ground level***.
- The difference is whether or not the structure has a shared entrance facility or separate entrance facility. They do not allude to ***building form or density***.
- Example: The Summit Condo Development is defined as a “Multi-Attached Dwelling” (126 Units)
 - as each unit has separate access to the ground level in a stacked fashion
- Multi-Family Dwellings & Multi-Attached Dwellings are similar in character and purpose.



APPELLANT CONCERNS

CONTRADICTION TO THE 2011 GENERAL PLAN

“Compatible development means that, although it is not necessarily the same as, or similar to, existing buildings in the vicinity, nonetheless enhances an established community and coexists with existing development without causing undue adverse impact on surrounding properties.” –Section 4.1 of the 2011 General Plan

The Development Officer’s Development Permit Technical Review outlines the analysis of Section 4.2.1 of the General Plan in detail. **(Appendix I)**

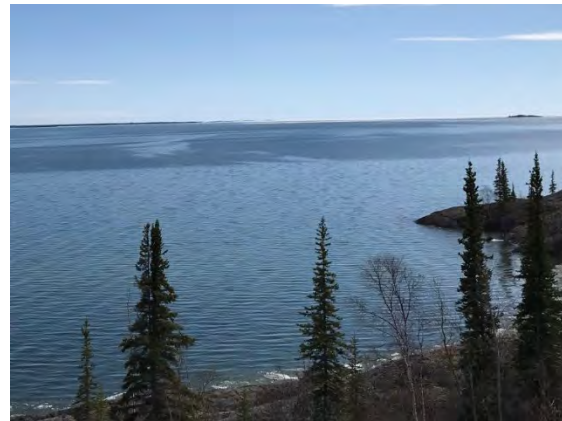
Old Town Character is difficult to define, and design is subjective. The 2011 General Plan has established policy statements that are intended to reinforce the established character of Old Town:

- Design of buildings should contrast **massing, materials and colour**
- Massing and Scale should respect the **Human-Scale**
- Emphasize Priority of **Pedestrian Activity**
- No building **should** exceed 3 Storeys in height.

APPELLANT CONCERNS

CONTRADICTION TO THE 2011 GENERAL PLAN

- Design of buildings should contrast **massing, materials and colour**



EAST ELEVATION

Scale: 3/32" = 1'-0"

APPELLANT CONCERNS

CONTRADICTION TO THE 2011 GENERAL PLAN

- Massing and Scale should respect the **Human-Scale**

Reoccurring rhythm breaks up the building into human scale.



EAST ELEVATION
Scale: 3/32" = 1'-0"

APPELLANT CONCERNS

CONTRADICTION TO THE 2011 GENERAL PLAN

- Massing and Scale should respect the **Human-Scale**

The use of balconies on the ground floor increase visual permeability.



EAST ELEVATION

Scale: 3/32" = 1'-0"

APPELLANT CONCERNS

CONTRADICTION TO THE 2011 GENERAL PLAN

- Massing and Scale should respect the **Human-Scale**

Materials and an awning creates a prominent front entry

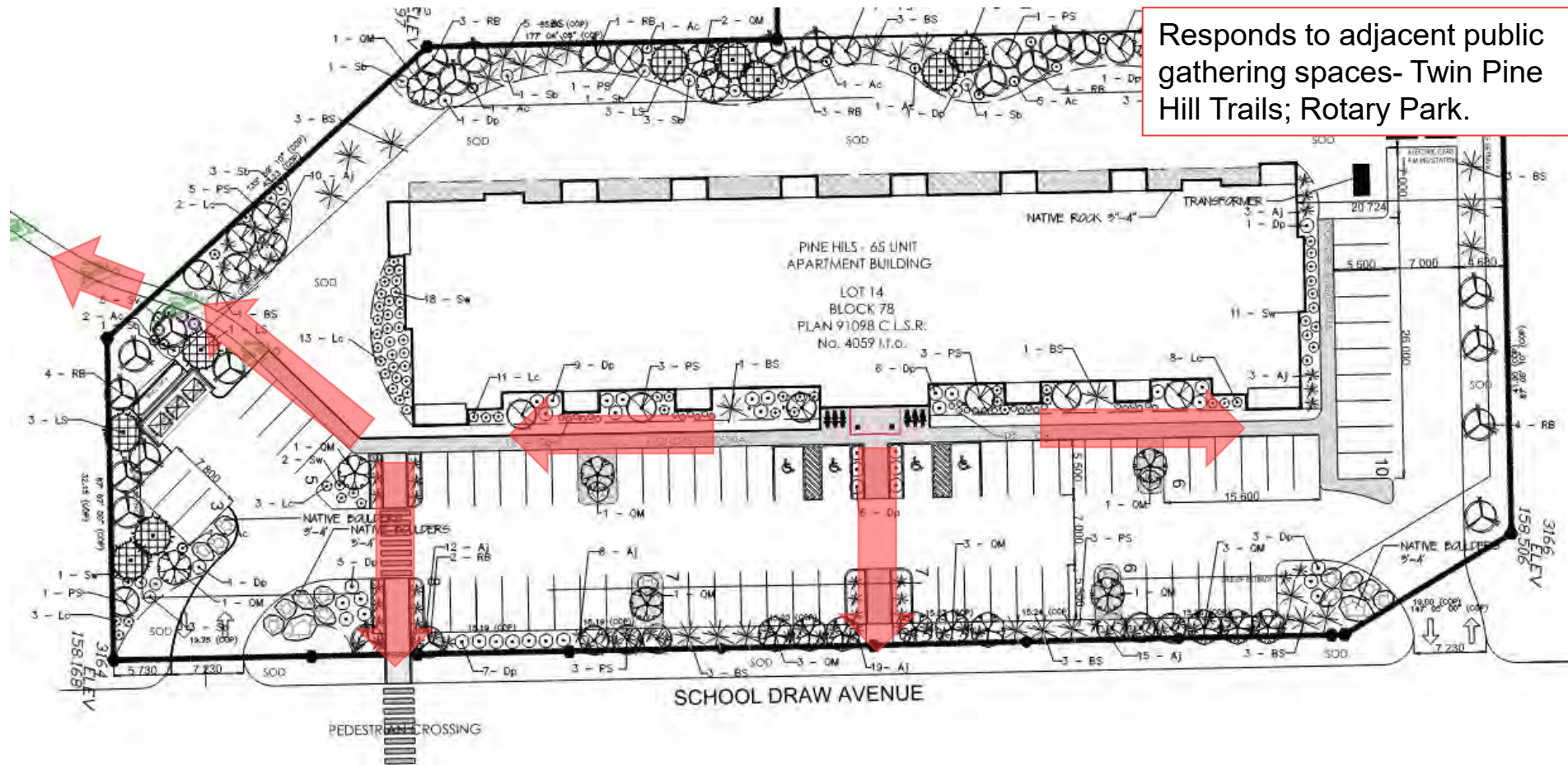


EAST ELEVATION
Scale: 3/32" = 1'-0"

APPELLANT CONCERNS

CONTRADICTION TO THE 2011 GENERAL PLAN

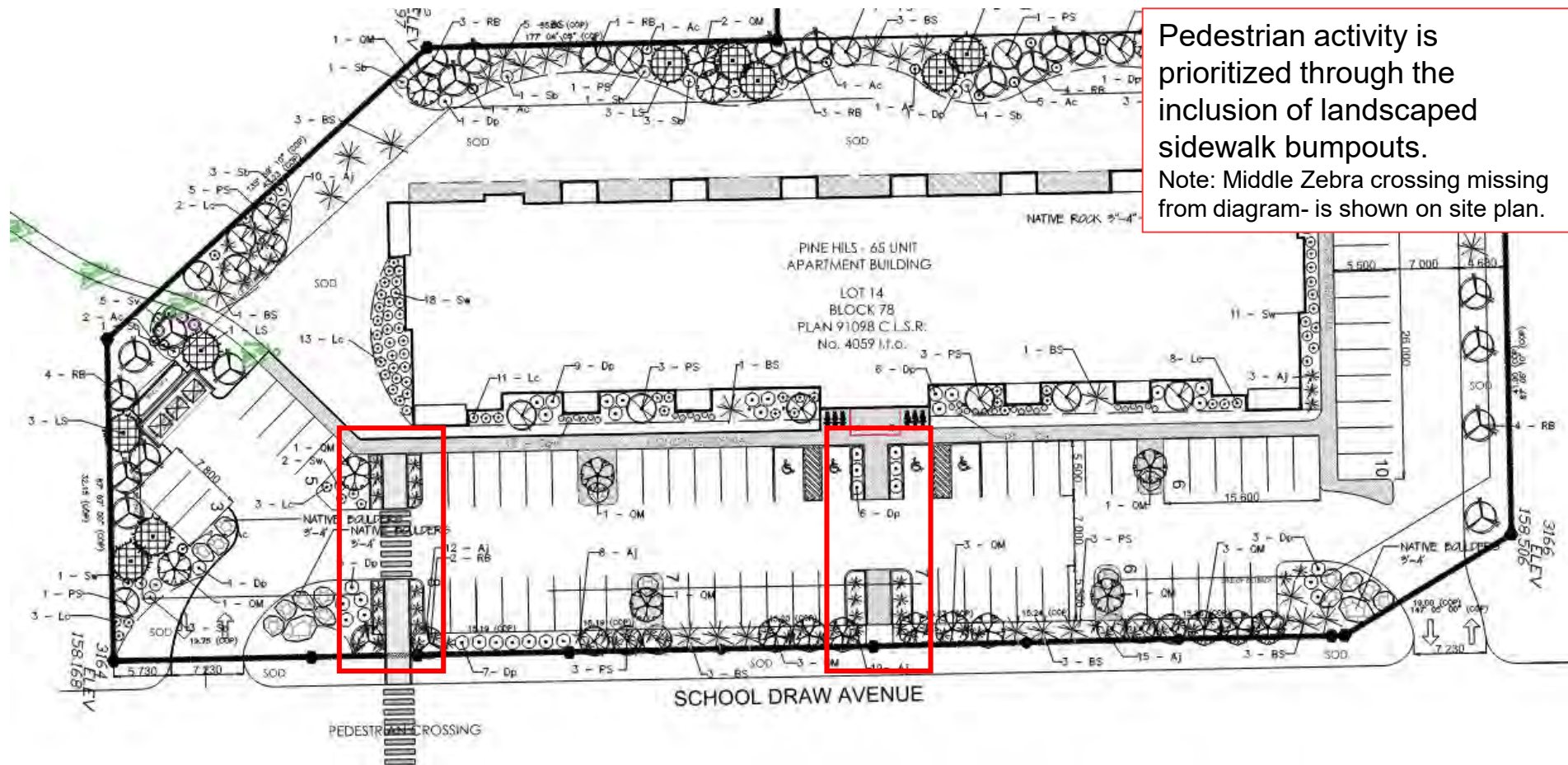
- Emphasize Priority of **Pedestrian Activity**



APPELLANT CONCERNS

CONTRADICTION TO THE 2011 GENERAL PLAN

- Emphasize Priority of **Pedestrian Activity**



APPELLANT CONCERNS**CONTRADICTION TO THE 2011 GENERAL PLAN**

- No building **should** exceed 3 Storeys in height.

This policy utilizes the word “**should**”, which indicates that the policy is recommended, but **not mandatory**.

Given that lower density development is **strongly discouraged in other areas of the General Plan** and **transitions are strongly encouraged between lands designated Mixed-Use and Residential Community**, an exception can be made and heights can be increased to a **certain extent**.

Proximity to the DT Zone is Key. Multi-Family development is not considered appropriate in the core of the OM Zone.

The site has a number of constraining factors such as **Physical Limitations & Natural Features** on the site, including large grade changes, rock outcrops, and vegetation. Section 8.2 of the Zoning Bylaw also states that the developer must minimize terrain disturbance. **This significantly decreases the buildable area of the lot.**

APPELLANT CONCERNS

CONCERNS REGARDING DENSITY

- The Zoning By-law, the OM Zone stipulates that Multi-attached dwellings are required to use the density figures in Section 10.8 of the Zoning Bylaw. Multi-attached dwelling density figures were used as they are the most similar to Multi-Family dwellings, as Section 10.8 does not stipulate density figures for Multi-Family dwellings.
 - **The allowable number of units on the site is 89 Units.**
- Further, the 2011 General Plan identifies the site as **suitable for 75 Units** in Section 2.3.4.
- The developer has proposed **65 Units**.

CONCERNS REGARDING THE HEIGHT VARIANCE

- The site has irregular lot lines, physical limitations and natural features that create difficulty in meeting the zoning regulations and to achieve the level of density called for in the 2011 General Plan & 2020 Community Plan.
- As the variance is regarding height, a sun shadow study was completed by the developer. The bulk of the building is setback from the property lines and abuts the large bedrock formation that exists on the western portion of the lot.

APPELLANT CONCERNS

CONCERNS REGARDING THE HEIGHT VARIANCE

September 21, 8:30 AM



Community Garden

APPELLANT CONCERNS

CONCERNS REGARDING THE HEIGHT VARIANCE

June 21, 4:30 PM



APPELLANT CONCERNS

ZONING BYLAW CONCERNS

Light Impacts

- Lighting specifications are a condition of the development permit. Lights will be the minimum required for safety & security, will be the minimum height, and directed with as narrow a downward band as possible.

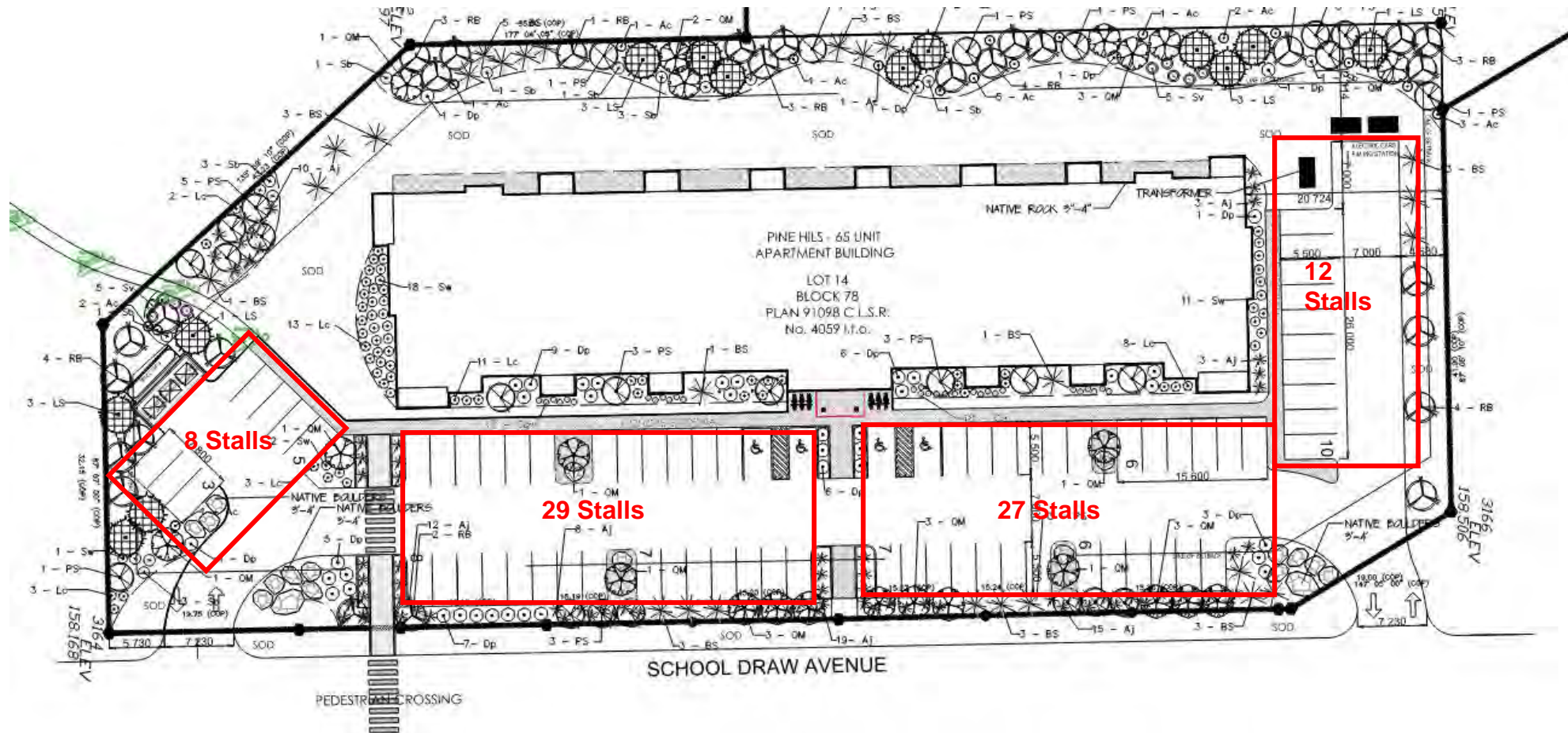
Traffic Generation, Parking, and Pedestrian Access

- A Traffic Impact & Pedestrian Circulation Study is required to be completed as per the signed Development Permit. All mitigations to traffic impacts and pedestrian circulation are required to be paid and completed by the developer.
- The development requires 75 Parking Stalls. The Development proposes **76 Parking Stalls**.
- Off-site Parking issues are enforced through the City of Yellowknife Highway Traffic Bylaw.
- As per Section 8.2 (h) of the Zoning Bylaw, the Parking lot was developed in smaller groupings and no individual parking area exceeds 40 parking stalls.

APPELLANT CONCERNS

ZONING BYLAW CONCERNS

Traffic Generation, Parking, and Pedestrian Access



APPELLANT CONCERNS

ZONING BYLAW CONCERNS

Loss of Privacy

- The development complies with a minimum yard setbacks for the Zone.
- Significant buffers between the development and the R2 Zone:
 - Landscaped Buffer between the building and School Draw Avenue
 - School Draw Avenue
 - Commercial Warehouses



APPELLANT CONCERNS

MISCELLANEOUS CONCERNS

<p>Noise Disturbance The Development complies with the minimum setbacks. The Development provides landscaping between the road and the apartment building that provides privacy and noise attenuation. The Zoning Bylaw does not regulate the noise levels of individuals living in their homes.</p>	<p>Impact on Neighbourhood Parks and Trails Parks and Trails are public amenities and may be enjoyed by any member of the public. No data suggests that Rotary Park and the Twin Pine Hill Trails are at capacity. Increased use of parks and trails increases vibrancy, combats social isolation, creates community, and increases natural surveillance and public safety.</p>
<p>Concerns Regarding 2020 Community Plan Alignment The 2011 General Plan and 2020 Community Plan both call for higher density on the site.</p>	<p>Blocked View of Twin Pine Hill The Design Standards for Twin Pine Hill regulate minimizing terrain disturbance of the bedrock and natural vegetation, but do not regulate the view of the rock. Blocked views of natural landscapes does not constitute undue interference with neighbourhood amenities.</p>

QUESTIONS

APPENDIX A:
Old Town Secondary Development
Scheme Bylaw (Bylaw #3651)

**CITY OF YELLOWKNIFE
OLD TOWN SECONDARY DEVELOPMENT
SCHEME**

Prepared by:

**UMA Engineering Ltd.
Engineers, Planners & Surveyors**

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Edmonton, Alberta
T5S 1G3

#260, 5022 - 49th Street
Yellowknife, NWT
X1A 3R7

June 1992



"SCHEDULE A"
BY-LAW NO. 3651
CITY OF YELLOWKNIFE
OLD TOWN SECONDARY DEVELOPMENT SCHEME

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1 INTRODUCTION

1.1 PURPOSE OF DOCUMENT

The Old Town area of Yellowknife, the City's original townsite, has experienced significant redevelopment pressures during the past ten years. The pressures are the result of the area's increasing popularity as a place to live, work and recreate. While these pressures are contributing to the area's continually evolving personality, their increasing influence on the character of Old Town requires management and coordinated direction.

In recognition of this need a Secondary Development Scheme was prepared.

The Secondary Development Scheme was prepared in compliance with the Planning Act of the Government of the Northwest Territories and the City of Yellowknife General Plan By-law No. 3213. As such, the Development Scheme contains the information required in both pieces of legislation; and, as required by the General Plan By-law, the Scheme provides guidance for the future development of Old Town.

1.2 GUIDING PRINCIPLE: The Unique Character of the Old Town

The assertion that the Old Town of Yellowknife is a different and unique part of the community is not open to question. The Old Town contains elements that are ultra modern and others that are old and reflect what was. Within the Old Town the history of the past and history in the making co-exist. Businesses and residences live side by side and foster a cultural and economic diversity found in no other area of the City. It is the original heart of the City, yet it was by-passed for many years and saw the focus of activity shift. It is also experiencing significant redevelopment pressures. Pressures that are the result of the area's popularity as a place to live, work and recreate. While these pressures are contributing to the area's continually evolving personality, their influence on the character of Old Town requires management and coordinated direction. In recognition of this need, the Old Town Secondary Development Scheme was prepared.

The intent of the Secondary Development Scheme is to reinforce this unique character of Old Town. It is intended to encourage the rehabilitation and redevelopment of the area in a manner that respects its historic role in the continued evolution of Yellowknife as well as its distinctive environmental characteristics. It is the special combination of the old and new that expresses the Old Town's character.

The Secondary Development Scheme will strengthen the character of the Old Town. It will continue to promote the existing mixture of land uses and activities that are respectful of the area's history and unique topography, and it will allow for the continued evolution of the area.

It is not surprising that City Council or Citizens of Yellowknife find it difficult to define or categorize the unique character of the area. Much depends on the perspective of the individual viewer. The area also defies categorization because of how it evolved. Part of this is due to the people who have chosen to live there, part of it is because as recently as 1974 the City saw the area as just another industrial area without any residential attributes and part of it is because the area has changed and is changing so rapidly.

The Old Town Secondary Development Scheme recognizes these features by proposing that the present form of development be largely maintained. The current nature of Old Town will be continued by encouraging the five major sub-areas to evolve as they have since their respective beginnings. By improving the physical linkages among the areas, Old Town's image and function will be maintained. The adoption of the Scheme will reinforce the position that Old Town is a single unit and that it is a special place in the City.

To say that the Scheme does not define the unique character of the Old Town is in one sense true, there is no clear definition. However, through its Objectives and Policies the Scheme fosters and supports the unique character of the area. It has not tried to put a box around the area and say "this is what it is". The Scheme does not try to restrict the area so that new, and perhaps unusual forms of development will be excluded. However, what the Scheme does do is to allow for the combination of different land uses in close proximity that enhance the social and physical diversity so characteristic to the fabric of Old Town.

1.3 LOCATION

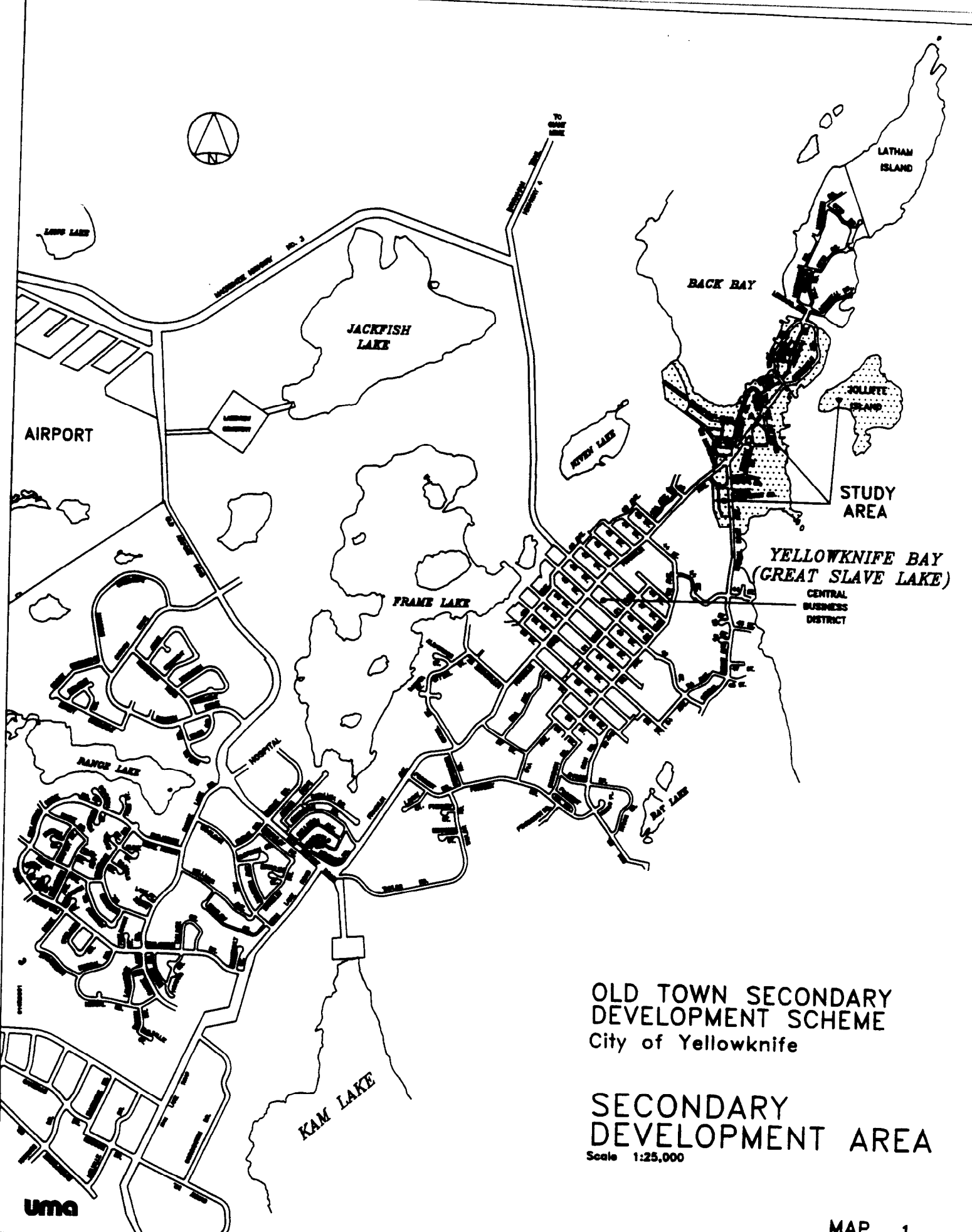
The Secondary Development Scheme encompasses the area illustrated on Map 1. It is bounded to the north by Latham Island and to the south by Fritz Thiel Park and the rock outcrop north of the Twin Pines Motor Inn, referred in this instance as Twin Pine Rock. The area is bounded to the west by Back Bay and to the east by Yellowknife Bay, both part of Great Slave Lake.

The Secondary Development Scheme area also includes Jolliffe Island. A prominent feature in Yellowknife Bay, the island is adjacent to the developed area of Old Town.

The lands within the boundaries of the Development Scheme include:

- Blocks A, B, C, D, E, and F;
- Blocks 1, 2, 3, 4, 11, 12, 13, 14, 15, 16, 17, 19, 20, 73, 74, 75, 76, 77, 77A, 78 and 79;
- Lot 863, Group 964, Plan 909;
- Lot 850-1, Group 964, Plan 950;
- Lease Area 9-0-580;
- The road right-of-ways therein; and
- All unsurveyed Commissioner's Land within the area delineated on Map 1.





OLD TOWN SECONDARY
DEVELOPMENT SCHEME
City of Yellowknife

SECONDARY
DEVELOPMENT AREA

Scale 1:25,000

uma

MAP 1

55

2 EXISTING LAND USE AND OWNERSHIP

2.1 LAND USE

The land uses are shown on Maps 2 and 3.

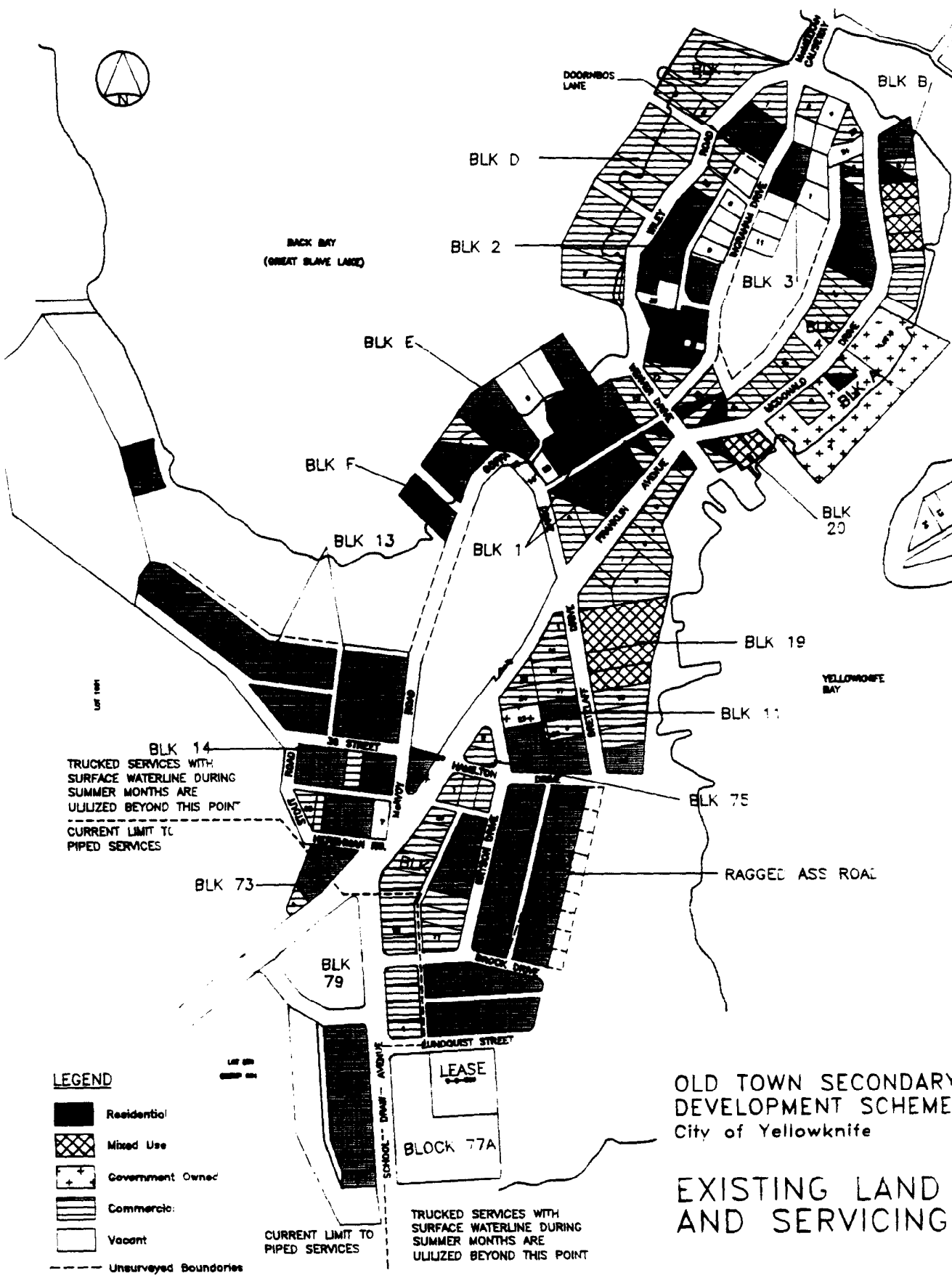
2.2 LAND OWNERSHIP

Maps 4 and 5 illustrate the four types of land owners holding property in the Old Town area. They are:

- private entities - either individuals or companies;
- Commissioner of the Northwest Territories;
- City of Yellowknife;
- Government of Canada.

Appendix 1 of this document contains a list of property owners which corresponds to the information presented on Maps 4 and 5. Ownership is identified by block and lot. This information was accurate as of the date of 3rd reading of this By-law.





LEGEND

- Residential
- Mixed Use
- Government Owned
- Commercial
- Vacant
- Unsurveyed Boundaries

OLD TOWN SECONDARY DEVELOPMENT SCHEME
City of Yellowknife

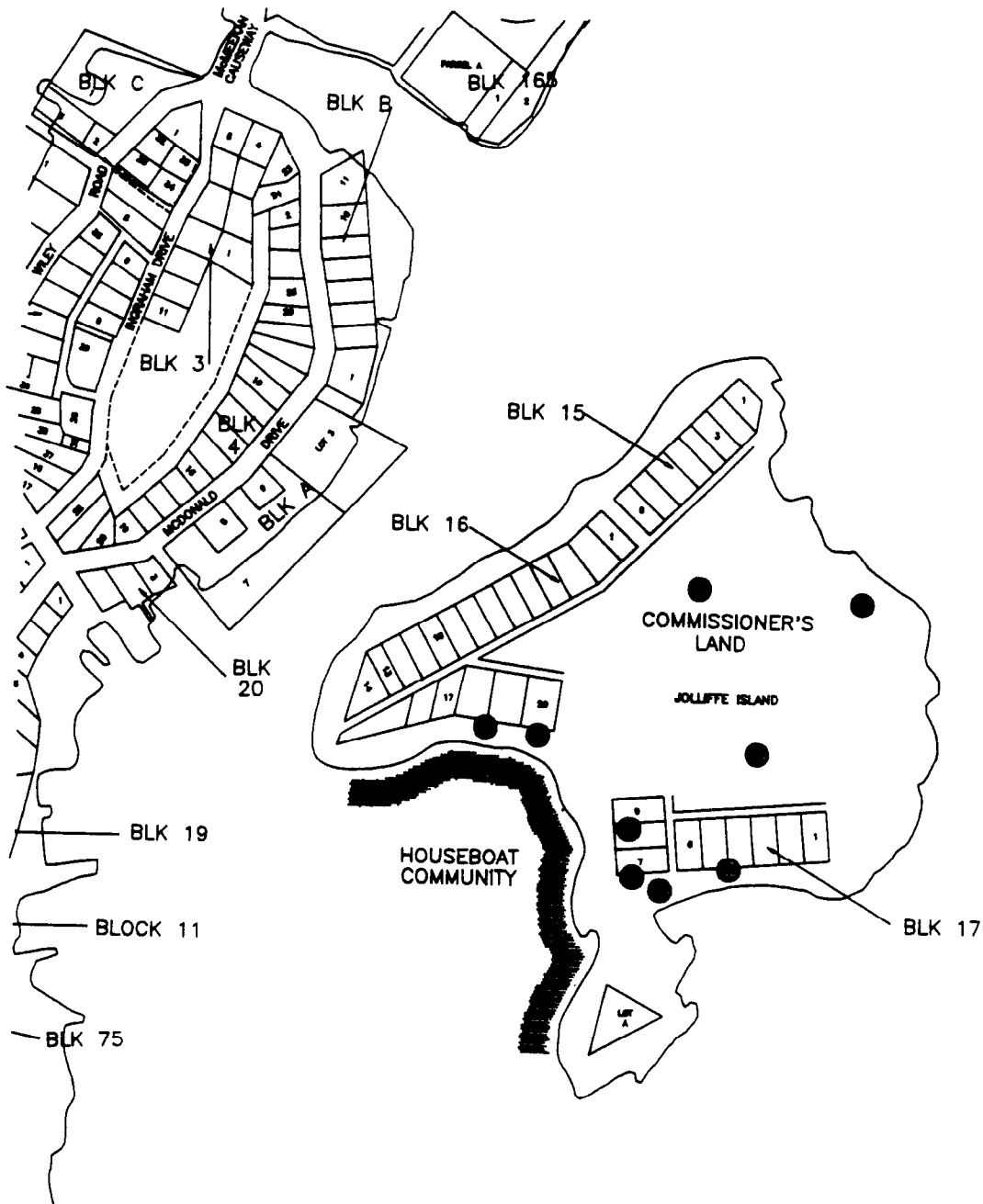
EXISTING LAND USE AND SERVICING - A

TRUCKED SERVICES WITH SURFACE WATERLINE DURING SUMMER MONTHS ARE UTILIZED BEYOND THIS POINT







CURRENT LIMIT TO PIPED SERVICES

LEASE
BLOCK 77A





LEGEND / NOTES

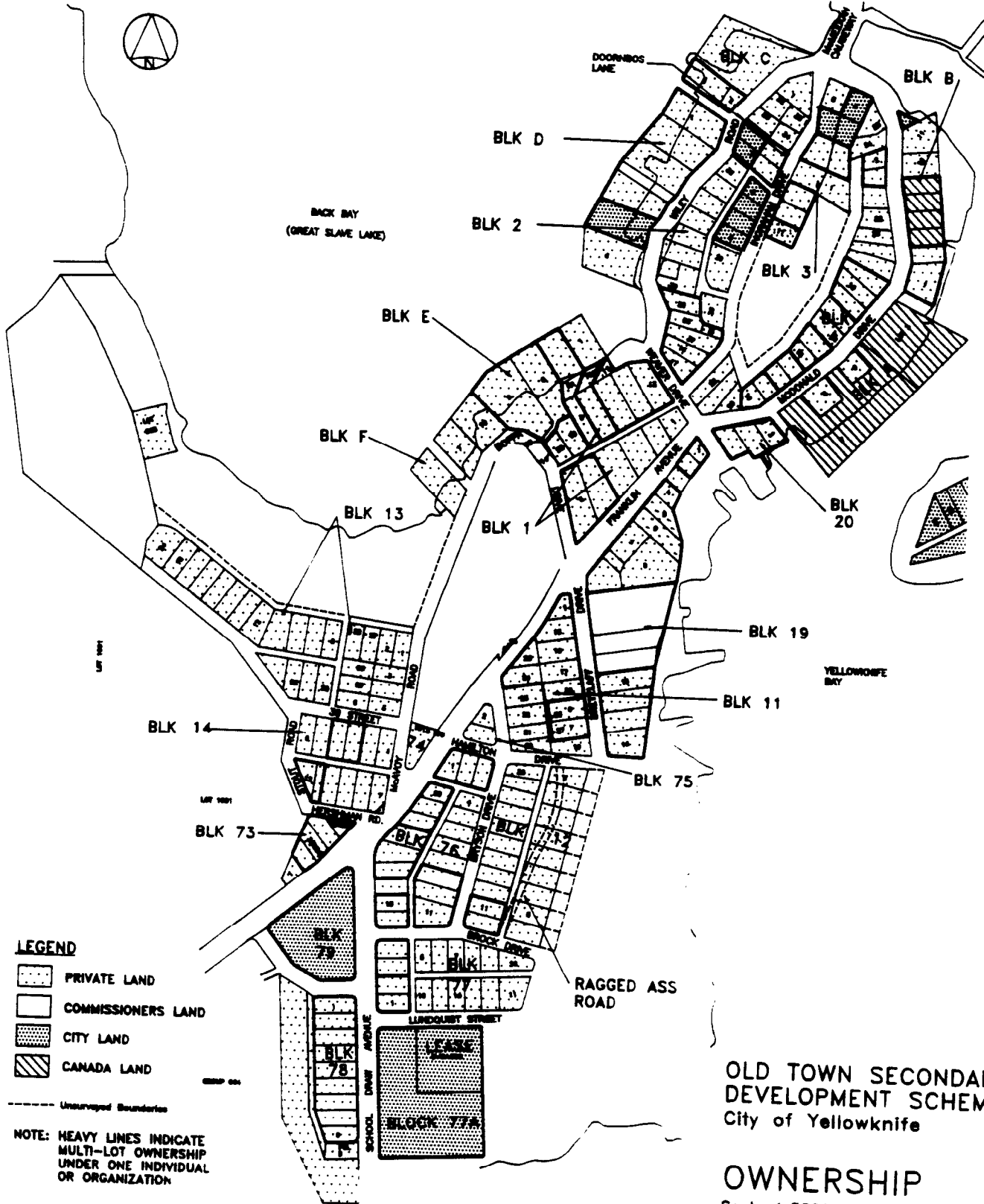
-  Residential
-  Mixed Use
-  Government Owned
-  Commercial
-  Existing Residence
-  Unsurveyed Boundaries

No City Servicing Provided To Jolliffe Island





**OLD TOWN SECONDARY DEVELOPMENT SCHEME
City of Yellowknife**

EXISTING LAND USE AND SERVICES - B
Scale 1:5000





LEGEND

-  PRIVATE LAND
-  COMMISSIONERS LAND
-  CITY LAND
-  CANADA LAND

--- Unsurveyed Boundaries

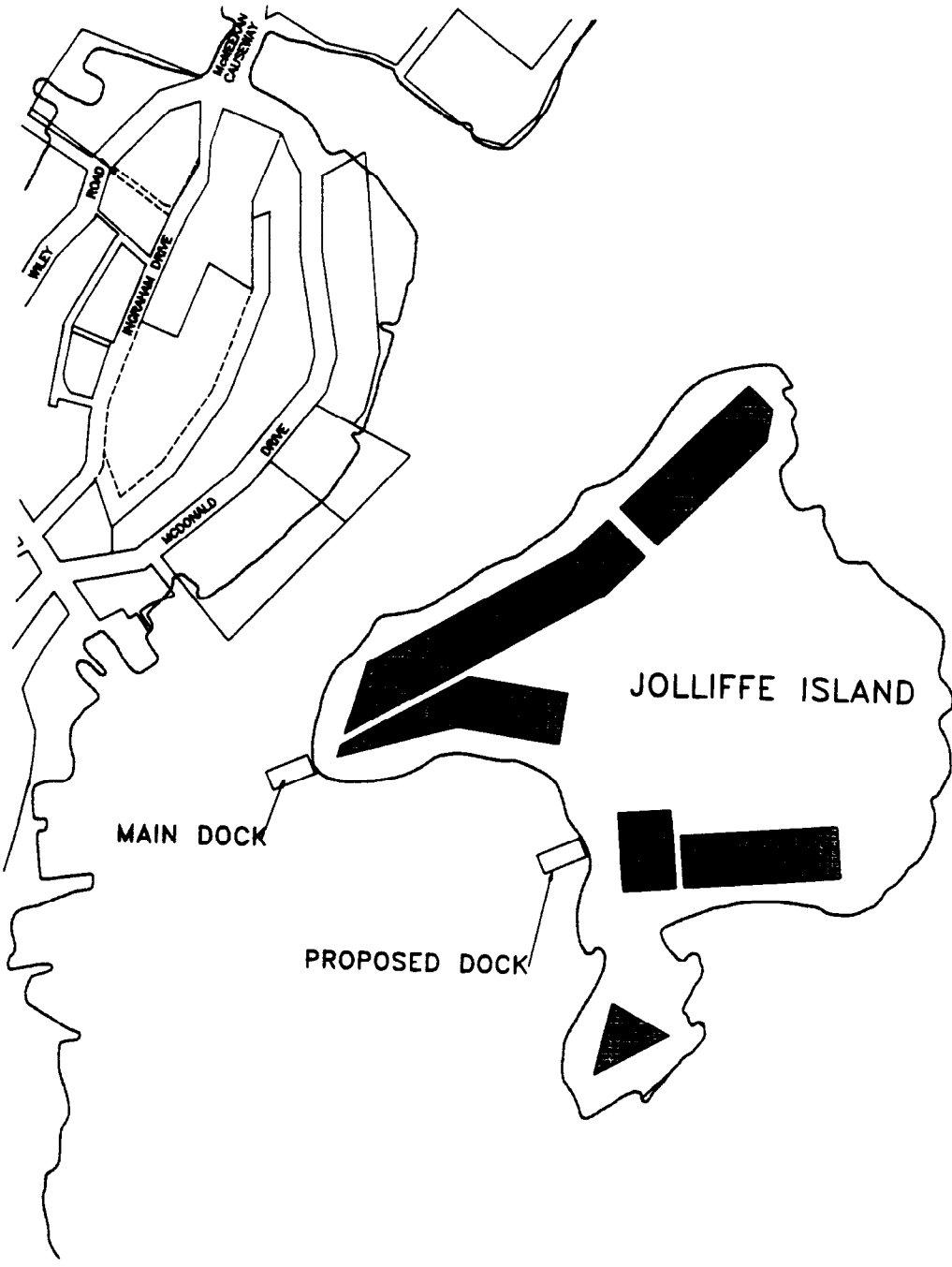
NOTE: HEAVY LINES INDICATE MULTI-LOT OWNERSHIP UNDER ONE INDIVIDUAL OR ORGANIZATION

OLD TOWN SECONDARY DEVELOPMENT SCHEME
City of Yellowknife

OWNERSHIP
Scale 1:5000

MAP 4





LEGEND

- Commissioners Land
- City Land
- Unsurveyed Boundaries

**OLD TOWN SECONDARY
DEVELOPMENT SCHEME
City of Yellowknife**

OWNERSHIP

Scale 1:5000



MAP 5

3 DEVELOPMENT SCHEME

3.1 INTENT

The intent of the Secondary Development Scheme is to reinforce the unique character of Old Town. It is intended to encourage the rehabilitation and redevelopment of the area in a manner that respects its historic role in the continued evolution of Yellowknife as well as its distinctive environmental characteristics.

3.2 OBJECTIVES

The following objectives indicate City Council's intention regarding Old Town's rehabilitation and redevelopment.

3.2.1 Residential Objectives

1. To maintain sufficient housing stock throughout Old Town with a variety of styles and sizes to accommodate the full range of families and individuals needs.
2. To retain Back Bay and the interior portion of Woodyard as primarily low and medium density residential areas.
3. To encourage rehabilitation of existing housing stock in Back Bay and the interior of Woodyard.
4. Encourage infill housing forms in Back Bay and Woodyard which are respective of the existing lot configurations.
5. To introduce housing forms which are sympathetic to, and fit with, the wetland shoreline and exposed rock settings.

3.2.2 Commercial Objectives

1. To encourage new retail and commercial operations that serve the needs of visitors to the area and local residents.
2. To maintain existing retail and commercial services that respond to both the local community and City wide needs.
3. To locate new retail and commercial services adjacent to, or immediately accessible to the major travel corridors of Old Town.

3.2.3 Mixed Land Use Objectives

1. To encourage a mix of medium density residential, commercial and industrial activities in Old Town between Boffa Drive and the McMeekan Causeway.
2. To encourage a variety of housing styles and sizes that respect the area's sense of history and environmental character.
3. To encourage a mix of appropriately designed and constructed medium density housing, restaurants, stores, motels and offices along MacDonald Drive and Wiley Road.
4. To retain the float plane operations near the north end of MacDonald Drive and along Wiley Road and the shoreline portion of Boffa Drive.
5. To retain the existing retail and commercial services active in the area.
6. To provide for appropriate neighbourhood convenience commercial activities.

3.2.4 Waterfront Objectives

1. To develop and maintain specific points whereby Yellowknife's residents and tourists can have unimpeded access to the waterfront and Great Slave Lake.
2. To develop waterfront parks which highlight Old Town's historical and current relationship to Great Slave Lake.
3. To provide for a contiguous and publicly accessible shoreline around Old Town from the proposed City Marina site in the southeast to Back Bay Ridge in the west as well as around Jolliffe Island.
4. To allow for only specific uses adjacent to the waterfront that are compatible with waterfront activities.
5. To encourage those activities, which are no longer compatible with the waterfront, to relocate away from the area.
6. To establish clear lines of communication between the City, Territories, and Federal Government representatives to address and resolve waterfront and water related uses relative to Back Bay and Yellowknife Bay.
7. To encourage agencies responsible to minimize pollution of the Back Bay and Yellowknife Bay shorelines and water.

8. To provide and maintain appropriately located points of services for boaters, float plane pilots and passengers utilizing Back Bay and Yellowknife Bay, and travelling to and from Jolliffe Island.
9. To establish and maintain the Back Bay wetlands as a unique waterfront, environmental reserve.
10. To respect and maintain the environmental integrity of the Willow Flats wetland by ensuring that adjacent developments are prepared and maintained in a manner compatible with the wetlands.

3.2.5 Parks, Recreation and Open Space Objectives

1. To develop and maintain Pilots Monument as an interpretive park, highlighting the role of floatplane pilots in founding Yellowknife.
2. To retain the environmental integrity of the extensive rock outcrop areas by preserving them as undeveloped open space.
3. To provide for the development and maintenance of areas for passive recreation throughout Old Town.
4. To ensure that the distinctive topographic features, associated vegetation and wildlife, and aquatic habitats are respected and incorporated into the development and maintenance of any park and open space.
5. To encourage the planning, development and subsequent use of Jolliffe Island as a day use park while capitalizing upon the island's historical and environmental interpretive possibilities.

3.2.6 Heritage Objectives

1. To promote an awareness of the historical flavour of Old Town among City residents and tourists.
2. To encourage retention, restoration and recycling of historically significant buildings, where feasible.
3. To encourage where feasible redevelopment strategies for historically significant buildings and sites which are sensitive to the original character of the building.

3.2.7 Urban Design, Site and Architectural Control Objectives

1. To ensure that rehabilitation and redevelopment of Old Town occurs in a manner that is sensitive to and respects the history and unique environmental features of the area.
2. To ensure that new developments consider and are designed for the topography of the area and do not hide or destroy it.
3. To ensure that new developments are designed and constructed in a manner that is complementary to the character of existing developments, namely in size, shape and finishing, and to the area as a whole.
4. To protect, where possible, existing views onto the water from any part of Old Town.
5. To provide public access to the waterfront wherever possible.
6. To encourage the retention and development of mature vegetation, particularly as a buffer between residential areas, arterial roadways and non-residential uses.
7. To develop and implement a tree planting plan for publicly administered areas and to encourage development and implementation of same on privately owned properties.

3.2.8 Circulation Objectives

1. To mitigate existing and potential impacts of transportation facilities on the community.
2. To provide adequate traffic management measures to ensure safe and convenient pedestrian and vehicular access to, and from, the Old Town area.
3. To encourage pedestrian and non-motorized traffic circulation through streetscape and pedestrian walkway improvements and to link the walkways with those in other parts of the City.



3.2.9 Local Utilities Objectives

1. To provide an acceptable level of service for utilities, water, fire and police protection, public transit and other municipal services.
2. To ensure that roadways, pedestrian routes and lanes are improved and maintained to City standards.

3.2.10 Land Disposal and Acquisition Objectives

1. To acquire property where required and where possible to support the implementation of continuous, public waterfront access and the expansion and development of designated park spaces.

4 SECONDARY DEVELOPMENT SCHEME: CONCEPT AND POLICIES

4.1 INTRODUCTION

This section describes the concept for future land uses in Old Town. It also provides the policies to direct the rehabilitation and redevelopment in the secondary development area. The policies are accompanied by interpretative statements.

The plan is illustrated on Maps 7 and 8, Development Scheme: Old Town and Development Scheme: Jolliffe Island, respectively. Maps 9, 10, 11 and 12 illustrate the circulation and servicing patterns, which accompany the development scheme.

4.2 SECONDARY DEVELOPMENT SCHEME CONCEPT

Old Town, comprised of five major subareas (i.e., Peace River Flats, Willow Flats, the Woodyard, the area about the Rock, and Jolliffe Island) is the original area of Yellowknife, refer to Map 6. Its unique character is currently being threatened with increasing redevelopment pressures.

The Secondary Development Scheme will strengthen the future of Old Town. It will continue to promote the existing mixture of land uses and activities that are respectful of the area's history and unique topography.

The current nature of Old Town will be continued by encouraging the five major subareas to evolve as they have since their respective beginnings. By improving the physical linkages among the areas, Old Town's image and function will be maintained. The adoption of the Scheme will reinforce the position that Old Town is a single unit and that it is a special place in the City.

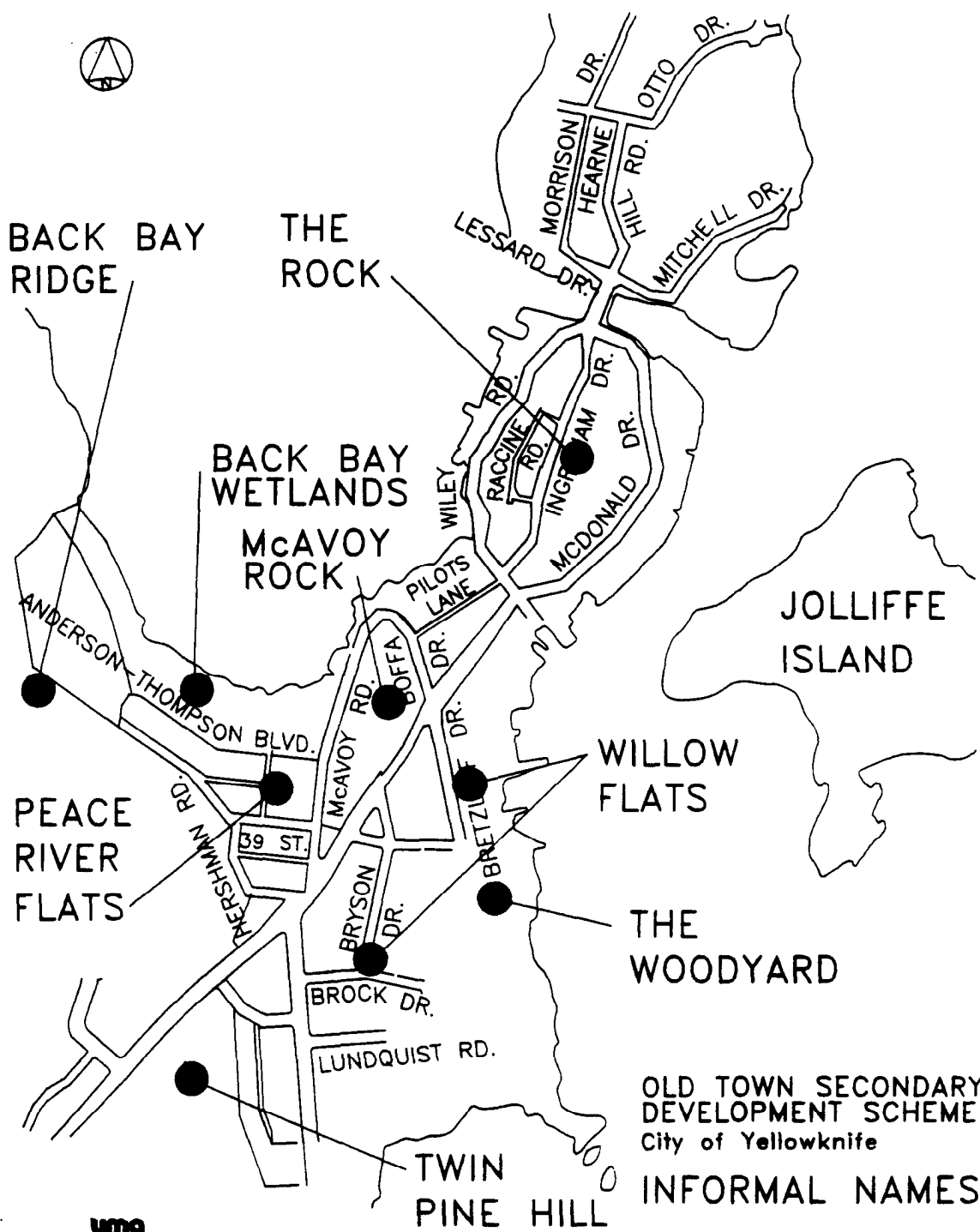
4.3 POLICIES

4.3.1 Residential Policies

Policy 1: Single Family, Low Density Residential Character (shown as R on Map 7) - The low density, single detached units, common to Peace River Flats will be maintained.

Interpretation - The intent of this policy is to allow housing units to be built that are compatible with the area's established and current housing patterns. Consequently, only single detached houses are permitted.

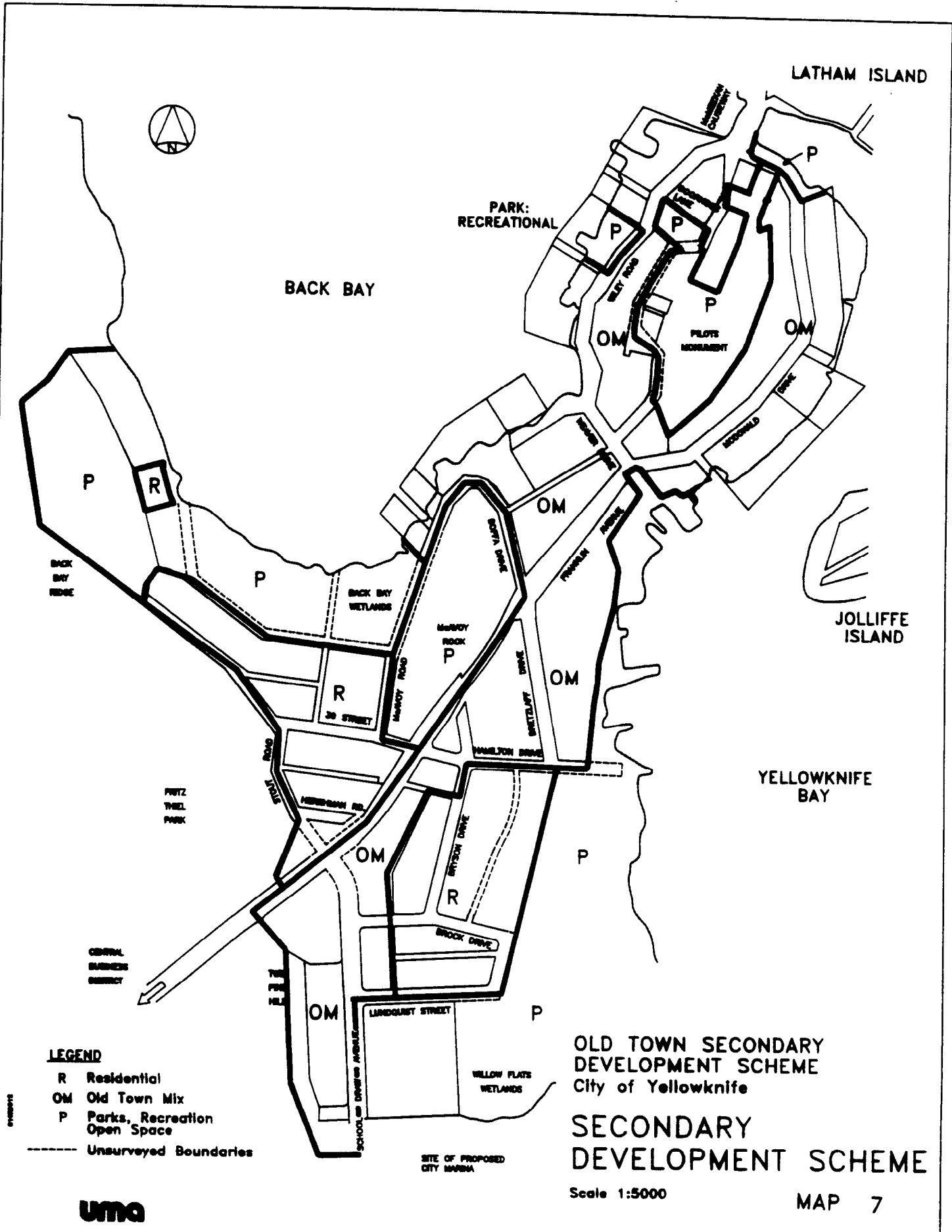
New housing will be encouraged which respects current housing structures in terms of height compatibility, privacy (visual and acoustical), roof form, materials and finishes, and identity.



OLD TOWN SECONDARY
DEVELOPMENT SCHEME
City of Yellowknife

INFORMAL NAMES

MAP 6



LATHAM ISLAND

PARK: RECREATIONAL

BACK BAY

JOLLIFFE ISLAND

YELLOWKNIFE BAY

- LEGEND**
- R Residential
 - OM Old Town Mix
 - P Parks, Recreation Open Space
 - Unserved Boundaries

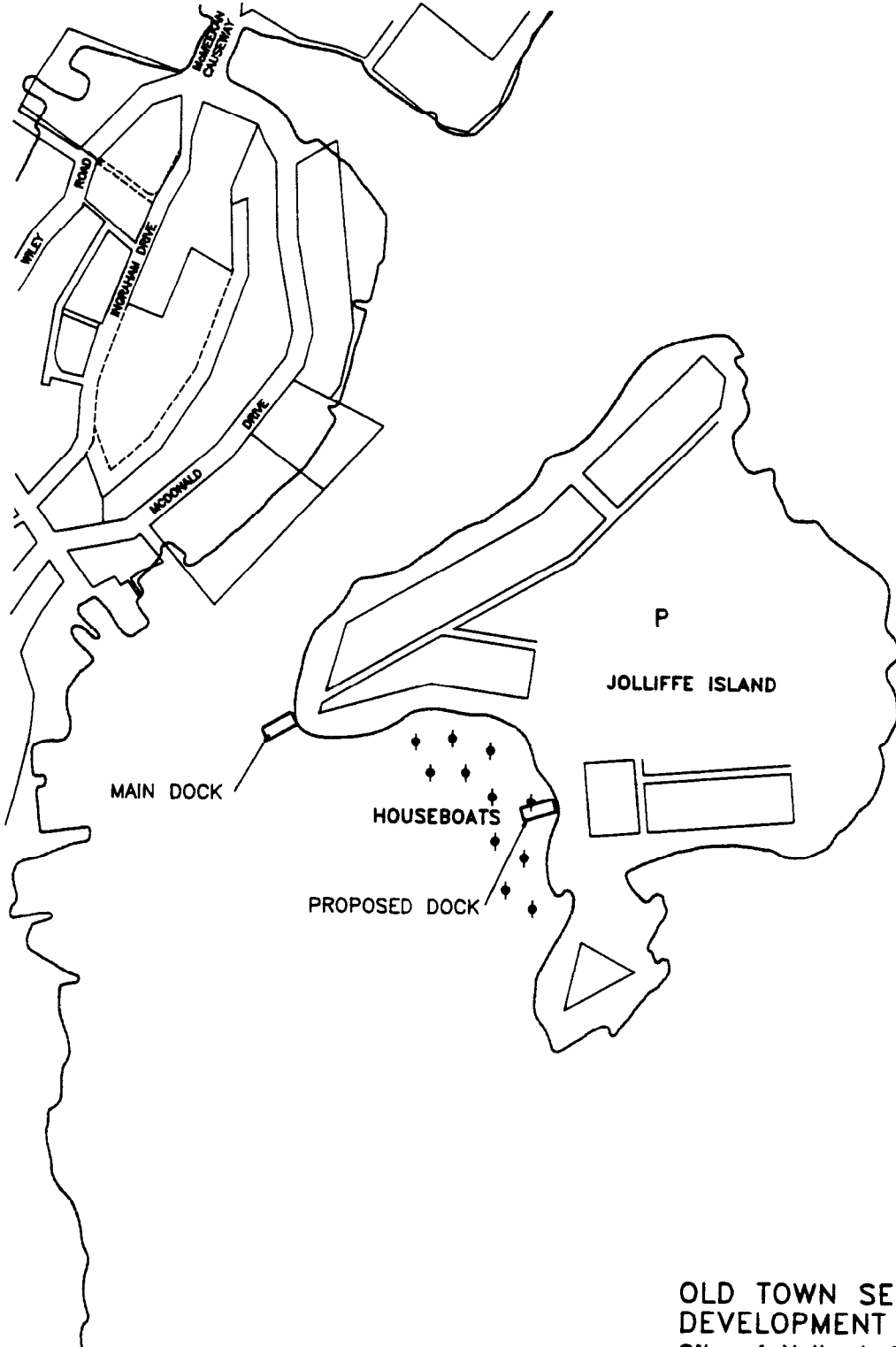
OLD TOWN SECONDARY DEVELOPMENT SCHEME
City of Yellowknife

SECONDARY DEVELOPMENT SCHEME

Scale 1:5000

MAP 7

uma



LEGEND

----- Unsurveyed Boundaries

OLD TOWN SECONDARY
DEVELOPMENT SCHEME
City of Yellowknife

**SECONDARY
DEVELOPMENT SCHEME**

Scale 1:5000

Individual viewsheds onto Back Bay or Back Bay Ridge should be respected where practical, therefore new units will be situated so they do not impede views from neighbouring properties where possible.

Site development will be encouraged which promotes the growth and maintenance of vegetation indigenous to the area.

Conditionally, permitted uses shall include churches, day-care centres, fire or police stations, group homes, parks and playgrounds, as well as public and quasi-public buildings. The siting of these activities, if allowed by Council will be encouraged to locate in the outer edges of the area.

This policy supports the Residential Objectives 1, 2, 4 and 5 of the Development Scheme.

Policy 2: Two Family, Low Density Residential Character (shown as R on Map 7) - A medium density residential character will be encouraged to develop in the interior portion of Woodyard.

Interpretation - The intent of this policy is to encourage the maintenance of a predominantly single family or limited multi-family neighbourhood. The policy further recognizes that, as commercial development bordering Franklin Avenue changes in type and increases in density, there could be increased pressure upon Woodyard to increase in density. However, the area's residential character needs to be maintained and allowed to prosper.

The construction of single family, detached dwellings and duplexes will be permitted in this area. All dwelling units, with the exception of those units facing Brock Drive and Lundquist Street, will be encouraged to front in the direction of Yellowknife Bay. Dwelling units will face onto the roadways in these instances.

Dwelling units will be built which complement one another in terms of height compatibility, privacy (visual and acoustical), roof form, materials and finishes, and identity. Where practical the new units will be situated so that they do not impede views from neighbouring properties.

Site development that promotes the growth and maintenance of vegetation indigenous to the area will be encouraged. On-site storage of material not directly related to dwelling unit will be discouraged.

This policy is congruent with the Residential Objectives 1, 2, 4 and 5 of the Development Scheme

Policy 3: Rehabilitation of Housing - The City will investigate and apply to Old Town any Territorial and Federal assistance (financial or otherwise) dealing with the upgrading and rehabilitation of housing stock.

Interpretation - In support of Residential Objective 3, the City will provide residents of Old Town with information about the availability of government support for the rehabilitation of older homes.

Policy 4: Existing Commercial Activities in Residential Areas - The City supports the continued presence of existing commercial activities in areas designated for Residential use.

Interpretation - In recognizing the continuing presence of commercial activities in Residential areas, the City accepts that these businesses require some flexibility to evolve and meet changing market conditions.

However, in recognizing that flexibility may be necessary, expansion or renovation to existing commercial activities must comply with the zoning and design guideline requirements that affect the property. The expansion or renovation must be sympathetic to the adjacent development.

The City's support for existing businesses in residential areas does not include support for that land use changing to another type of land use. While changes in ownership would not affect the City's support, changes in the type of business operation will.

4.3.2 Commercial Policies

Policy 1: Commercial Activities - The City will encourage the development of retail outlets and pedestrian oriented shopping nodes along the southeast side of Franklin Avenue in the immediate vicinity of School Draw Drive.

Interpretation - The existing commercial service activities bordering Franklin Avenue should be modified to encourage the provision of commercial activities that will cater to the convenience needs of local residents and also attract tourists to Old Town.

The developments, while accommodating vehicle oriented traffic, shall emphasize retail foot traffic during the warmer months. This will be exhibited by the way in which they relate to the street and incorporate portions of pedestrian walkways through their respective areas.

The developments facing onto the streets shall contribute to the identity of Old Town. They will indicate a passage from the downtown of Yellowknife into Old Town. In keeping with the promotion of a local character, major stores such as department stores, will not be allowed. Downtown is the appropriate location for major retail outlets and those located in Old Town should be of a smaller scale and size.

Dwelling units will be permitted above the ground floor commercial activities. The ground floor of any structure, however, will be oriented expressly to commercial activities.

The commercial developments shall be constructed and maintained in a manner compatible with adjacent residential uses. Appropriate setbacks will be maintained between adjoining structures of different uses. These setbacks will be screened with landscaping and/or yard furnishings, where necessary, to improve visual aesthetics and to help maintain privacy within residential units.

The commercial developments shall be finished with materials and in forms that are complementary to the adjacent residential land uses. Further, they will not detract from or hide the presence of Twin Pine Hill.

4.3.3 Mixed Land Use Policies (shown as OM on Map 7)

Policy 1: Old Town Mix 1 - Low Density - The City will encourage the development, rehabilitation and maintenance of mixed land use activities similar to what presently exists in the Old Town area west of Franklin Avenue and McDonald Drive, north of Boffa Drive. Emphasis shall be given to residential uses with small scale commercial development that supports neighbourhood and tourist use.

Interpretation - The mixture of land use activities are instrumental to the well being of Old Town. The residential component will enhance the community presence by ensuring a "round the clock" or permanent ambience. The existence of commercial activities to cater to residential convenience needs will further reinforce this presence. Home occupations and handicraft operations will attract tourists to the area, as will restaurants and coffee shops.

This policy supports Mixed Land Use Objectives 1, 5 and 6.

Policy 2 - The City shall encourage the development of tourist related commercial uses, small office functions and residential convenience uses along Wiley Road, Mcdonald Drive and Weaver Drive.

Interpretation - The location of these commercial activities along the major travel corridors of Old Town will reinforce the existing land use pattern. It will also help protect the residential uses situated in the interior of the area.

This policy supports Mixed Land Use Objectives 3 and 5.

Policy 3 - The City shall encourage commercial development to incorporate existing older structures, where feasible, and/or build new structures that have forms, materials and finishes that, where suitable, are complementary to existing ones as well as to the natural setting.

Interpretation - By retaining and revitalizing existing buildings in the area, the physical character of Old Town shall be maintained. The construction of new buildings in a manner similar to those already present will contribute to maintaining the character of the Old Town.

The new development, designed and built in an environmentally sensitive manner, will also continue to highlight the area's distinct physical features.

This policy supports Mixed Land Use Objective 3.

Policy 4 - The City shall encourage the rehabilitation, development and maintenance of varied housing styles and forms in the interior of Old Town, off of the main roads. This will include a variety of household sizes.

Interpretation - A major part of Old Town's attraction as a community is the presence of people who, among themselves, represent a variety of different phases of the life cycle. By providing and maintaining a range of housing types with designs that have a broad appeal, there is an increased possibility of maintaining a viable social diversity.

This policy supports Mixed Land Use Objective 2.

Policy 5 - The City shall encourage the rehabilitation and development of residential units between Wiley Road and Mcdonald Drive whose designs respect Old Town's history and environmental setting.

Interpretation - Another integral part of Old Town's attraction is the Pilots Monument Rock - its shape, its exposed bedrock, its visibility from a number of places throughout Old Town and the City. Moreover, its history further adds to its identity. To ensure that the Rock's distinctiveness is not obscured, any new residential development around



the Rock should be completed in a sympathetic manner. The finishing and materials of a residential unit, plus the unit's form and size, should fit with the Rock's colour and natural contours as much as possible. Site development should also be done in a manner that highlights the terrain and incorporates historical features. Low scale fencing is one such example.

This policy supports Mixed Land Use Objective 2.

Policy 6 - The City shall support the maintenance of Old Town as a viable location for float plane operations.

Interpretation - The float planes helped establish Yellowknife and continue to contribute to the City. By maintaining float plane activities in Old Town the City will be respecting the area's history, while concurrently helping to increase Old Town's tourist appeal.

This policy supports Mixed Land Use Objective 4.

4.3.4 **Mixed Land Use Policies** (shown as OM on Map 7)

Policy 1: Old Town Mix 2 Medium Density - The City shall encourage the development of higher density commercial uses on the east side of Franklin Avenue, between Hamilton Drive and Weaver Drive. The uses shall cater to residents and tourists by providing motel, retail and office functions.

Interpretation - These parcels of land will provide transition between the commercial activities to the south and the lower density mixed uses to the north. The developments will serve as a catalyst to attract and hold tourists in the area.

This role of catalyst does have responsibilities. In helping establish the point of transition between the Franklin Avenue Corridor and Old Town, the developments will have to be built and constructed in a manner that fits in to the area. Height restrictions should be enforced on the form and size of development, in order to allow for views from the street through to Yellowknife Bay. The materials, finishes and site landscaping should also be similar to adjacent uses. Innovative developments will help add interest to the street and entice people to the area.

Development in this area, while accommodating vehicular traffic, should also emphasize the incorporation of pedestrian traffic. Streetscape beautification, in conjunction with the mix of foot traffic and retail, will contribute to this.

These developments should reflect respect for the shoreline of Yellowknife Bay. Development should be set back from the shoreline allowing an open space strip to be maintained and in which public access can be provided.

Screening should be incorporated between these developments and abutting land uses of a lesser density. The screening, to help maintain the visual and acoustical privacy of neighbours, can incorporate landscaping features and/or site furnishings.

This policy meets Objective 3 of the Mixed Land Use Objectives.

Policy 2: Old Town Mix 2 Marina - The City shall retain the area presently being used as the Bartam Trailer Park for uses in support of the proposed Marina. Developments could include medium density residential row housing or apartments, hotel/motel, commercial/ retail, offices or other facilities needed for the Marina.

Interpretation: This parcel of land is located immediately across School Draw from the site of the Marina. It is presently under utilized as a trailer park. Due to subsurface conditions large structures may not be possible on the lake side of School Draw. Even if only used as a parking lot, this site could be more suitable than other options.

This policy meets Objectives 1, 3 and 8 of the Waterfront Objectives.

4.3.5 **Waterfront Policies** (shown as P on Map 7)

Policy 1 - The city shall encourage the development and maintenance of public access to the waterfront. Specific access points include the day use boat launch situated at the base of Weaver Drive, the end of Hamilton Drive, Brock Drive, Lundquist Street, Lois Lane as well as the points designated on Jolliffe Island.

Interpretation - These points of access have historically been used by people wanting access to Yellowknife Bay and Back Bay. Their use for public access continues today. As the access becomes formalized, detailed site plans need to be developed for each area. The site plans should consider and incorporate the need for both vehicle parking and pedestrian access from the vehicles. Emphasis must be given to the introduction and maintenance of appropriate vegetation at each site.

In the case of Weaver Drive and Lois Lane, consideration also has to be given to the development and maintenance of launching and take-out areas for small craft. The Lois Lane launch will accommodate only non-motorized boats, whereas Weaver Drive will allow power boats. Neither launch area will permit moorage.

With regard to Jolliffe Island, the points of access will have to also incorporate utility functions deemed necessary for the Island. This policy supports Waterfront Objective 1 and 8.

Policy 2 - The City shall encourage the development, where practical, of continuous public access around the shoreline of the Old Town area extending from the site of the proposed City Marina to Back Bay Wetlands and the shoreline of Jolliffe Island. Public ownership is necessary to protect and preserve these sensitive areas and any developments will have to be constructed so as to minimize disturbance to the area.

Interpretation - To implement this policy, the City would have to purchase private property as it is offered for sale. Expropriation should be considered in only extreme measures and as a last resort.

In the case of Jolliffe Island, Council's decision to have a site use plan prepared for the Island will help implement this policy.

This policy supports Waterfront Objective 3 and 4.

Policy 3 - The City, as represented by its Community Services Department shall prepare or have prepared a site use plan for Jolliffe Island and for the publicly designated open space bordering Old Town's shoreline from the proposed City marina site to the Back Bay wetlands.

Interpretation - The plan shall be prepared to a level of detail that identifies the location of appropriate activity nodes within the public area. It should also define the pedestrian alignment that will connect these nodes with one another and adjacent land uses. Consideration also needs to be given to developing these nodes and alignment in an environmentally sensitive manner. Where feasible, appropriate infrastructure should be used to highlight the area's natural and historical interpretive potential. Particular attention will have to be given to recognizing the existing residential uses on Jolliffe Island in any future plans. Current residents might be encouraged to become park keepers.

This policy supports Waterfront Objectives 1, 2, 3.

Policy 4 - The City through its Planning and Lands, and Community Services Departments shall encourage, over the long term, the development of activities which are compatible with the shoreline setting and will not contribute to the pollution of Great Slave Lake.

Interpretation - There is a desire on the part of Yellowknife residents to maintain the water of Great Slave Lake in as pure a state as possible. Yellowknife Bay is a secondary source of water for the City. As well, it contributes significantly to the aesthetic quality of Yellowknife's image. It also is a major recreation area for Citizens.

This policy is in support of Waterfront Objectives 4, 5 and 7.



Policy 5 - In conjunction with Policies 3 and 4, the City shall preserve areas of environmental and cultural significance bordering the shoreline.

Interpretation - To achieve this policy, a natural area like the Back Bay Wetlands and the undeveloped portions of the Willow Flats and Woodyard shorelines will have to be preserved in an undisturbed state. Implementation of the Heritage By-law will be relied on to protect Old Town's cultural heritage. The City should acquire property such as Max Ward's, as it is synonymous with the float plane's contribution to Yellowknife. This property could then be turned into a museum emphasizing early aviation in the Northwest Territories.

This policy supports Waterfront Objective 9 and 10.

Policy 6 - The City shall initiate the coordination of planning interests in the Old Town Waterfront presently held by the local, Territorial and Federal Government agencies.

Interpretation: Confusion and frustration presently exists as to who is responsible for and/or able to take effective action regarding all of the waterfront planning issues. To deal with this, the City should invite representatives of the various agencies with some influence over the Old Town waterfront to participate in an informal working group. The group would be used as an arena in which planning concerns could be expressed and the means by which they may be resolved defined.

Ultimately, the City and the other interested agencies may decide to explore options such as designation of areas as harbours or ports or implementation of other forms of regulation of water and shore based activities.

This policy supports all of the Waterfront Objectives.

4.3.6 Parks, Recreation and Open Space Policies (Shown as P on Map 7)

Policy 1 - The City shall develop and maintain Pilots Monument as an interpretive park and will encourage the development of supporting infrastructure as necessary.

Interpretation - Pilots Monument is a recognized focal point for Old Town. Its development as an interpretive park will create a more significant tourist draw. The park's presence will further reinforce the identity of Old Town and contribute to its attractiveness as a residential area.

The planning and development of this park in conjunction with that proposed for the Max Ward property will ensure that adequate parking is effectively provided for. It will also help delineate traffic movement patterns and refine the design of pedestrian walkways in the vicinity of the Wild Cat Cafe.



Closure of that part of Ingraham Road adjacent to the Pilot's Monument will provide a large area for parking and other interpretive activities.

Walkways can be used to link the Monument, through this site and on down the hill to the Wildcat Cafe and the Max Ward site.

This policy supports Parks, Recreation and Open Space Objective 1.

Policy 2 - The City shall maintain open areas referred to as McAvoy Rock and Twin Pine Hill as undeveloped open space.

Interpretation - Development on these two rock outcrops would distract from the area's distinctive topography. Many citizens expressed the desire that they be maintained in their current, undeveloped state.

This policy supports Parks Recreation and Open Space Objective 1.

Policy 3 - The City shall encourage the preservation of the vegetation and associated wildlife and aquatic habitats particular to the Back Bay Wetlands and, where feasible, to the Willow Flats and Woodyard shorelines.

Interpretation - Both of these areas are environmentally significant. As their significance comes from the natural state of the areas and the wildlife which occupies them, development would be limited to walkways only. There is also an opportunity to include interpretive signage to enhance residents and tourists use of the area.

This policy supports Parks, Open Space and Recreation Objective 4.

Policy 4 - The City shall prepare a site use plan for Jolliffe Island, under the direction of its Community Services Department.

Interpretation - A site use plan for Jolliffe Island should highlight the Island's unique topography and past land uses as part of an interpretive program. The main "point of entry" to the Island should be on the point of land opposite the public launching area at the end of Weaver Drive. This "point of entry" could be defined by a public dock and information structure of some type (refer to Map 10).

A second dock should be considered on the shoreline of the Bay in which the houseboats are moored. This dock would serve as a utility dock for the park. It would be at this point that materials would be taken to and from the Island. However the pick up point for waste and sewage would be located on the Mainland.

Future uses on Jolliffe Island should be limited to those activities or facilities in support of recreation and/or tourism.

This policy supports Parks, Open Space and Recreation Objective 5.

4.3.7 Heritage Policies

Policy 1 - The City shall continue to make residents and tourists aware of Old Town's unique historic character by encouraging the retention and restoration of historic structures.

Interpretation - The Heritage By-law No. 3445 in conjunction with Zoning By-law No. 3424 provides the specific direction to achieve this policy. Consideration should be given to developing and maintaining local expertise regarding the detailed assessment of structures for historic designation.

This policy supports Heritage Objectives 1, 2 and 3.

4.3.8 Urban Design, Site and Architectural Control Policies

Policy 1 - The City shall encourage the design and development of structures that complement the distinct environmental features unique to Old Town.

Interpretation - The architectural style and finish of developments should be reviewed on an individual basis as part of the permit application process. The Heritage Committee could be included as part of the review process. Structures proposed in Peace River Flats and Willow Flats should be oriented on their respective sites so that they do not, if practical, impede views from public thoroughfares and neighbouring lots onto the Back and Yellowknife Bays. Visual crowding should be avoided by maintaining the 35% - 40% ratio of building to site area provided for in the Zoning By-law. Furthermore, the individual structures should be finished in materials and colours that would appear as if they belong in the area.

Structures built in the vicinity of the Pilot's Monument Rock should have a form that fits with the contours. The building should not dominate or "hide" the terrain. Finishing materials should fit in with the natural terrain.

As with the implementation of the Heritage Policies, it is necessary to develop the urban design expertise locally so it can be offered to the Planning and Lands Department. Alternatively, or perhaps over time, urban design guidelines could be incorporated into the Zoning By-law.

This policy supports the Urban Design Objectives 1, 2, 3 and 4.

Policy 2 - The City shall encourage the planting and maintenance of indigenous vegetation throughout Old Town.

Interpretation - Planting of trees at appropriate places along the edges of streets and in publicly administered open spaces will contribute to the area's image and appeal. It could be done in conjunction with park development plans administered by Community Services. Private land owners shall be encouraged to follow suit.

Landscaping requirements, such as, planting along roads and between adjacent properties, will help to screen non-compatible uses and can be used to minimize views of untidy or unsightly premises.

This policy supports Urban Design Objectives 6 and 7.

4.3.9 Circulation Objectives

Policy 1 - Over time, as traffic volumes warrant and as funds are made available, the City's Public Works and Engineering Department shall investigate the feasibility of the following improvements:

- realign the current intersections of Hershman Road and School Draw Avenue with Franklin Avenue so that they form a four-way intersection;
- close part of Hershman Road to disconnect its intersection with Franklin Avenue;
- close the existing lane which bisects Block 14 at its intersection with Franklin Avenue;
- close McAvoy Road's current intersection with Franklin Avenue so that it intersects with 39th Street;
- reorient 39th Street so that it intersects directly with Franklin Avenue;
- extend Hamilton Drive eastward to provide direct vehicular access into the proposed open space abutting Yellowknife Bay;
- close that portion of road which currently runs on a northwest diagonal between Hamilton Drive and Franklin Avenue;
- officially survey the road paralleling the front of Block 13, and construct and maintain it to municipal standards;
- officially survey, construct and maintain to municipal standards, that portion of road to the southwest of Back Bay which connects Boffa Drive and McAvoy Road;
- close Ingraham Road between Lots 6 and 29, Block 2, immediately to the west of the base of Pilots Monument and incorporate it as an open space;
- reroute Ingraham Road along the present route of Raccine Road;
- reconstruct the intersection at the north end of Ingraham Road with Wiley Road at the McMeekan Causeway so that traffic will not be able to enter Ingraham Drive;
- realign McMeekan Causeway to improve traffic flows;



- reduce the level of traffic using Wiley Road; and
- reconstruct McMeekan Causeway to allow for a re-establishment of natural currents in the causeway and to allow for the movement of vessels under the Causeway.

Interpretation - These changes will allow for a smoother and safer flow of traffic throughout Old Town. The intersections with Franklin Avenue will ensure that drivers have proper views of approaching traffic. These realignments will allow for a safer mixing of vehicles leaving and entering Franklin Avenue.

It is possible that these intersections will require varying means of control from stop signs to traffic lights. This will have to be monitored.

The realignment or closure of some of the intersections will require some purchase of property. The lands required for new rights-of-way or bulbing may also be obtained through other avenues such as land swaps. In addition, access must be maintained to all lots where service connections exist.

The surveying and construction of new roads will formalize existing traffic patterns.

This policy supports Circulation Objectives 1 and 2.

Policy 2 - Alternative engineering approaches should be considered to ensure roadway improvements complement the area.

Interpretation - In recognition of the unique nature of the Old Town area, road standards that are appropriate to newly developed areas where full road right-of-ways are available may not be appropriate in the Old Town area. As part of the investigation of the feasibility of a roadway improvement, Public Works and Engineering should consider improvements that will complement and reinforce the area while addressing concern for safe movement of traffic.

This policy supports Objective 1 of the Circulation Objectives and Objective 1 of the Urban Design, Site and Architectural Control Objectives.



Policy 3 - The Public Works and Engineering Department should designate a hierarchy of streets as illustrated on Map 9 - Circulation.

Interpretation - This definition of the collector roads, Franklin Avenue/McDonald Drive and Wiley Road serving as the spine, with associated one-way and two-way local roads radiating off will ensure a safe and smooth flow of traffic. McDonald Drive will also serve as the main artery for traffic travelling to Latham Island and Lot 500. Returning vehicles will use Wiley Road.

This policy supports Circulation Objectives 1 and 2.

Policy 4 - A trail corridor will be established and constructed where necessary as part of the open space development throughout Old Town and as part of an overall trail system.

Interpretation - The trail corridor will have to be prepared under the direction of the City's Community Services Department. Furthermore, it should be prepared as an integral part of an overall open space master plan for the area. It should also be designed to accommodate both pedestrians and cyclists.

The exact siting of the corridor should capitalize on existing and future pedestrian desire lines as much as possible. The corridor, running through undeveloped areas and along City streets, will have to address private property owner's concerns. In many cases the trails may already exist in some form but may not be linked, or maintained or constructed to a suitable safe standard.

The trails should ultimately be developed with landscaping elements that contribute to the aesthetic appeal and image of Old Town. It should be used as an aid for neighbourhood revitalization.

This policy supports Circulation Objective 3.

Policy 5 - The City should encourage the Inland Waters Directorate of the Federal Government to delineate take off and landing lanes for float planes on both Yellowknife Bay and Back Bay.

Interpretation - As boat traffic continues to increase in volume, it is important that the water area used by float planes be visibly marked and maintained. This will help minimize the potential for an accident between boat and plane traffic. This will become of increasing importance once Jolliffe Island is developed as a park and people start boating to the Island on a more regular basis.

LATHAM ISLAND

BACK BAY






JOLLIFFE ISLAND

YELLOWKNIFE BAY

FRITZ THIEL PARK

CENTRAL BUSINESS DISTRICT

LEGEND

-  Collector
-  Local
-  Local (one way)
-  Trail Corridor
-  Unsurveyed Boundaries

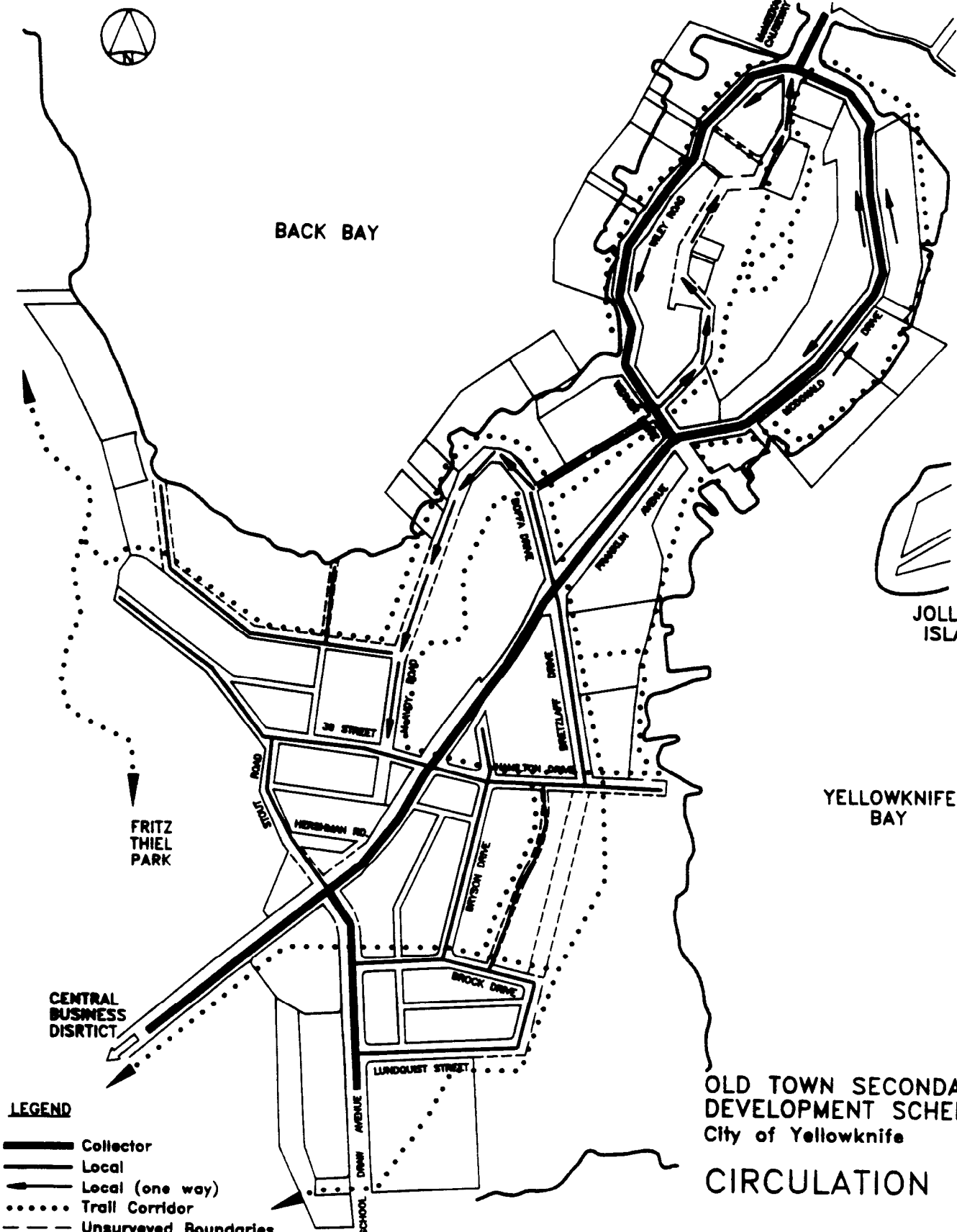
SITE OF PROPOSED CITY MARINA

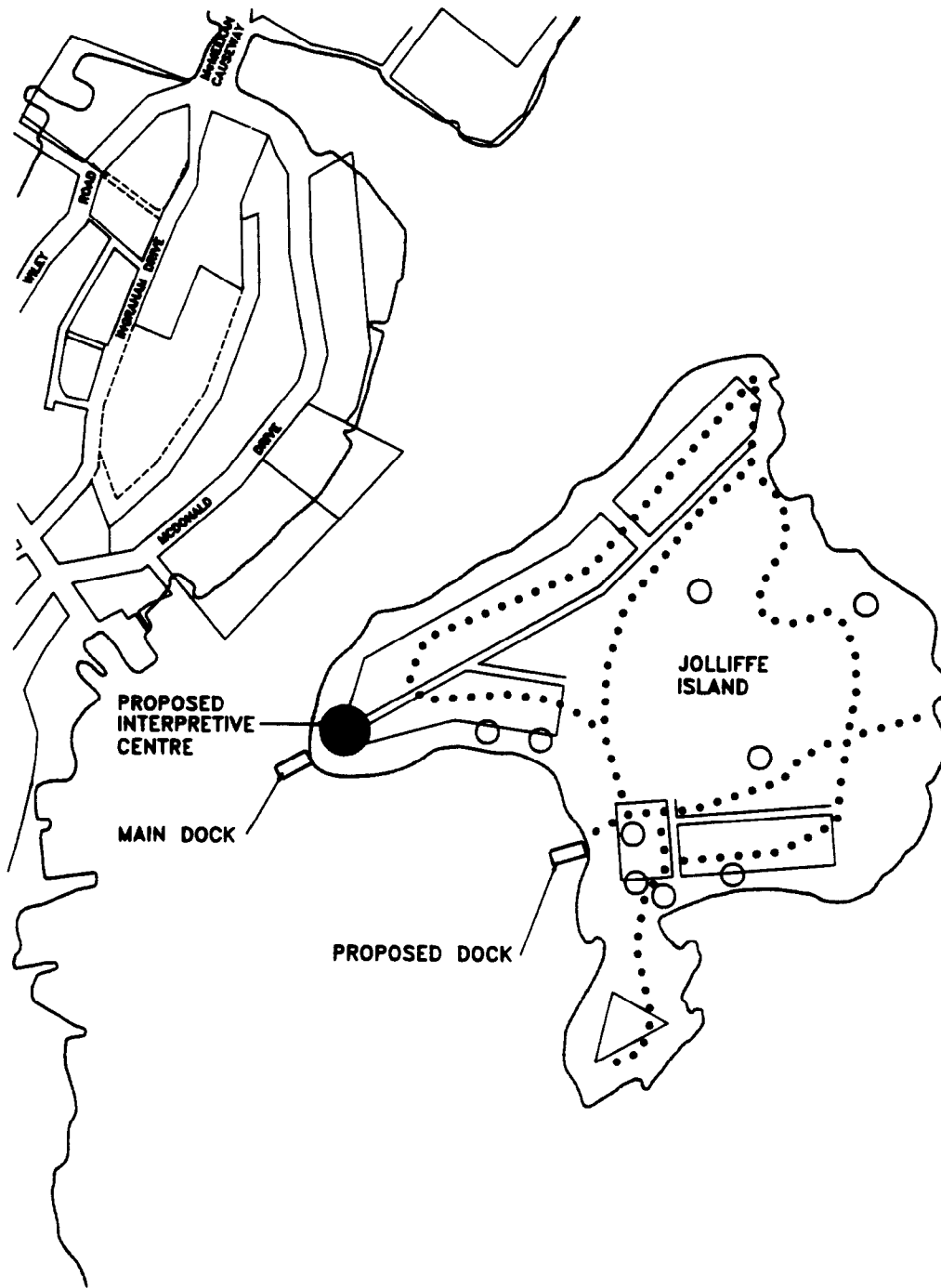
OLD TOWN SECONDARY DEVELOPMENT SCHEME
City of Yellowknife

CIRCULATION

Scale 1:5000

MAP 9





LEGEND

- Existing Residence
- Trail Corridor
- Unsurveyed Boundaries

**OLD TOWN SECONDARY DEVELOPMENT SCHEME
City of Yellowknife**

CIRCULATION

Scale 1:5000



MAP 10

4.3.10 Local Utilities Policies

Policy 1 - The existing sewer and water servicing system will be generally maintained throughout Old Town, with services provided by trucks and summer lines. Over time, the use of honey buckets should be discontinued and all buildings will provide their own water storage and sewage holding tanks.

Interpretation - The cost of providing piped sewer and water services beyond those already existing would be substantial. It will require significant surface disruption given the need to blast bedrock to construct trenches. This could significantly alter the existing character of the landscape.

This policy supports Local Utilities Objective 1.

Policy 2 - The extension of piped water and sewer services in the Willow Flats area map may be considered.

Interpretation - As redevelopment occurs, piped services may be considered in the future to meet demands. This expansion of services could stimulate additional development pressures to recover the servicing costs and to capitalize on the increased level of services. Any servicing system must be constructed to normal City standards and be fully paid for by the users.

Map 11 shows the area presently serviced by underground utilities and the area where it is possible to extend services without benefit of a lift station. However it must be realized that any proposal to install underground services will be very expensive. The City has researched this idea in the past and in 1986 estimated costs in excess of \$20,000 per lot for services to the property line only.

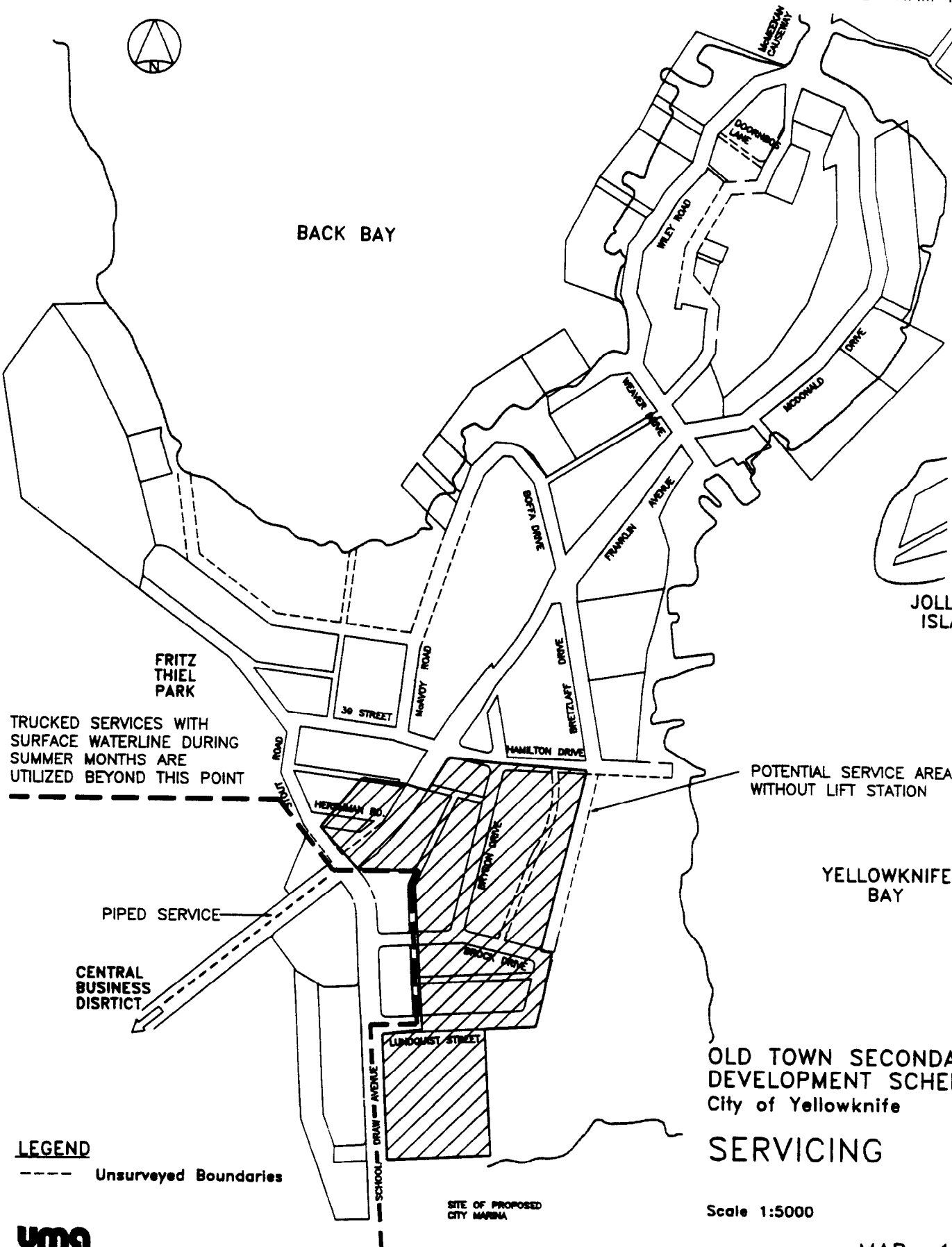
As the ground conditions, rock, ice and high water table, will contribute to high costs it is expected these estimates, proposed without benefit of exploratory drilling, may climb even higher. It is therefore recommended that unless development pressures increase drastically no further consideration be given to extending underground services in the Old Town.

This policy supports Local Utilities Objective 1.

LATHAM ISLAND



BACK BAY



JOLLIFFE ISLAND

FRITZ THIEL PARK

TRUCKED SERVICES WITH SURFACE WATERLINE DURING SUMMER MONTHS ARE UTILIZED BEYOND THIS POINT

POTENTIAL SERVICE AREA WITHOUT LIFT STATION

YELLOWKNIFE BAY

PIPED SERVICE

CENTRAL BUSINESS DISTRICT

OLD TOWN SECONDARY DEVELOPMENT SCHEME
City of Yellowknife

SERVICING

LEGEND

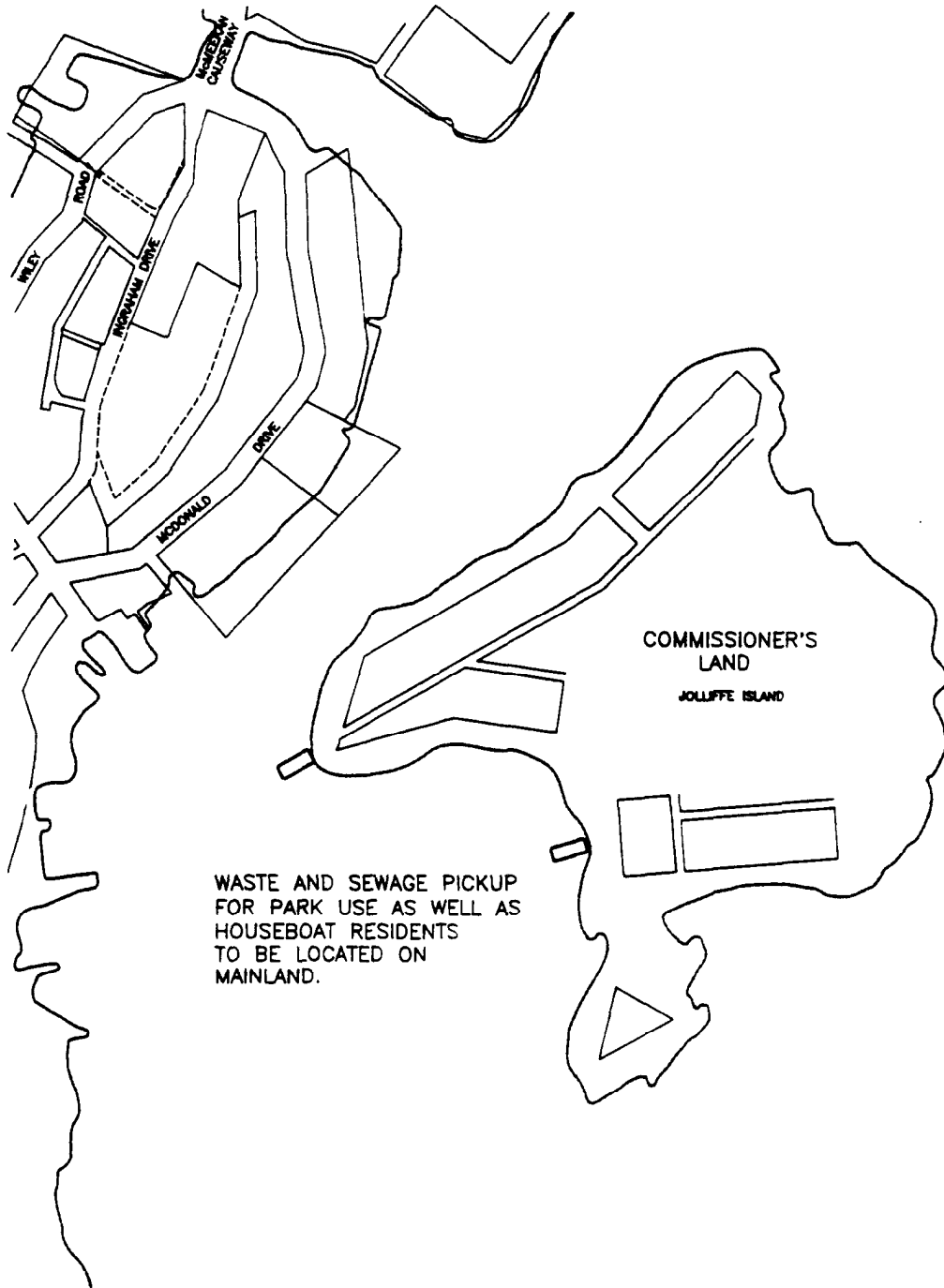
--- Unsurveyed Boundaries

SITE OF PROPOSED CITY MANSION

Scale 1:5000



MAP 11



LEGEND

----- Unserved Boundaries

**OLD TOWN SECONDARY DEVELOPMENT SCHEME
 City of Yellowknife**

SERVICING

Scale 1:5000

Policy 3 - A drop-off collection system should be installed on the mainland to service the houseboats and Jolliffe Island residents and be available for public use at an established fee.

Interpretation - Some houseboat residents have expressed a willingness to pay for the use of City services to dispose of their waste and sewerage. The availability of such facilities could accommodate this. The fees charged to houseboat residents should cover capital installation, service and maintenance costs.

This policy supports Local Utilities Objective 1.

4.3.11 Land Disposal and Acquisition Policies

Policy 1 - The City may dispose of property that is not being utilized for roadway purposes, after the road rights-of-way in question have been closed by bylaw.

Interpretation - The disposal of lands not being used for originally designated purposes could be accomplished through a land swap or sale at fair market price.

The disposal of unused City lands could assist in adding to logical development areas but should only be undertaken when the City is convinced the right-of-way will not be needed in the future.

This policy supports Land Disposal and Acquisition Objective 1.

Policy 2 - The City should acquire property bordering the waterfront to implement a continuous, publicly accessible strip of shoreline and to relocate non-compatible uses from the area.

Interpretation - Fair market value should be paid for privately held waterfront lots as they are placed up for sale. A suitably valued property located elsewhere in the City could be substituted in lieu of money.

It is expected that this initiative will take many years to accomplish. Innovative funding mechanisms could be explored which would take advantage of every opportunity to solicit support for the policy. While a very costly action, the return of all waterfront lands for public use is deemed to be a significant objective. However, ownership by the City would not preclude the continued use by private operators of docks and other facilities.



APPENDIX B:
Council Meeting Minutes from August
28, 2000



CITY OF YELLOWKNIFE
Adopted Council Minutes
Regular Meeting
Monday, August 28, 2000 at 7:00 p.m.

Present: Mayor D. Lovell,
Councillor C. Best,
Councillor B. Brooks,
Councillor B. Lyons,
Councillor B. McDonald,
Councillor K. O'Reilly,
Councillor R. Slaven, and
Councillor A. Woytuik.

City Staff: M. Hall,
R. Charpentier,
M. Christensen,
G. Craig,
T. Mercer,
D. Nicklen,
J. Smyth,
G. White, and
D. Euchner.

1. Councillor Lyons read the Opening Prayer/Meditation.

AWARDS, CEREMONIES AND PRESENTATIONS

2. There were no awards, ceremonies or presentations for the agenda.

ADOPTION OF MINUTES FROM PREVIOUS MEETING(S)

- #0290-00
3. Councillor Slaven moved,
Councillor McDonald seconded,

That the Minutes of Council for the regular meeting of Monday, July 24, 2000 be adopted.

MOTION CARRIED UNANIMOUSLY



DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

4. Councillor Best disclosed a business transaction which may be perceived by the public as a conflict of interest. Councillor Best stated that Nova Construction provided bridge financing to assist her in the purchase of the Office Lounge. Mr. Mike Mrdjenovich, the developer interested in the former Bartam Trailer Park, is a major shareholder in Nova Construction. Councillor Best stated that, although the business transaction had been concluded prior to the closing of the Request for Proposals, and a legal opinion which indicates that no conflict exists, there may be a public perception of conflict and as such, she would remove herself from debate on the former Bartam Trailer Park area.
5. Councillor Best excused herself from the meeting at 7:10 p.m.

CORRESPONDENCE & PETITIONS

6. Council read a petition requesting that Council rescind By-law No. 4123, a by-law authorizing the City to dispose of the Bartam Trailer Park site.

STATUTORY PUBLIC HEARINGS

7. There were no statutory public hearings.

DELEGATIONS PERTAINING TO ITEMS ON THE AGENDA

8. Council heard a presentation from Mr. David Gilday regarding the sale of the former Bartam Trailer Park site. Mr. Gilday stated the importance for a comprehensive planning process for this area and consideration of other planning processes that have already been undertaken. Mr. Gilday questioned if the City has considered the costs associated with



sidewalks, traffic lights and road upgrades if this project is approved. Mr. Gilday stated that he envisions the property as a public place which celebrates the City's aboriginal origins and mining history. Mr. Gilday implored Council to reject the proposal and to conduct a comprehensive plan for the area. In response to questions from Council, Mr. Gilday stated that the City may be able to obtain federal and territorial grant funding to develop the site as a public use area.

9. Council heard a presentation from Mr. Matthew Grogono regarding the sale of the former Bartam Trailer Park site. Mr. Grogono reminded Council that in 1993 the City wanted to retain the Bartam site for public use. Mr. Grogono stated that it would be advantageous for the City to retain this property as a public use area with an emphasis on tourism. Mr. Grogono felt that the City has not taken enough time to consider all of the possibilities for the area and encouraged Council to do so.
10. Council heard a presentation from Mr. Mike Byrne regarding the sale of the former Bartam Trailer Park site. Mr. Byrne asked that Council give full consideration for the end use of this property, ensuring access to both Yellowknifers and visitors alike. Mr. Byrne stated that the area would be better served if Council took the time to develop a plan for the area and sought public input. In response to a question from Council, Mr. Byrne stated that he felt that the public would be prepared to pay for the cost of developing the area if the vision was good enough.
11. Council heard a presentation from Mr. Stephen Fancott, a representative of Ecology North regarding the sale of the former Bartam Trailer Park site. Mr. Fancott urged Council not to accept the proposal for a commercial development on this site and encouraged Council to develop a comprehensive report for use of the entire area. Mr. Fancott stated that a balance between public and private use must be established and suggested that a "Healthy House" show home may fit well with the public use aspect of the area.



12. Council heard a presentation from Mr. David Wind, a representative of the Yellowknife Seniors Society. Mr. Wind stated that while there is a need for seniors housing in the community, the Bartam site is not the most ideal. Mr. Wind expressed concern with the distance to the downtown and other facilities used by the seniors, the amenities of the complex and the limited income of many seniors which makes it cost prohibitive to obtain housing on the open market. Mr. Wind stated that the Yellowknife Seniors Society would prefer if Council considered this proposal as an apartment building, removing the intended use as a seniors complex from the decision.
13. Council heard a presentation from Ms. Pat McMahon regarding the former Bartam Trailer Park site. Ms. McMahon encouraged Council to defer this proposal and go into a planning exercise that would involve the residents, the Yellowknives Dene and private enterprise. Ms. McMahon stated that this area could be developed such that it is conducive to tourism and economic development, suggesting kiosks, open markets and interpretive locations. Ms. McMahon encouraged Council not to piecemeal this process, but to develop a plan for the area.
14. Council heard a presentation from Ms. Leslie Green who felt that not all ideas have been explored for the former Bartam site and suggested that this site be linked with the potential development of Twin Pine Hill. Ms. Green encouraged Council to review all of the proposals submitted and to share those ideas with the public.
15. Mr. Mike Byrne presented Council with comments from Ms. Allice Leggat who was unable to attend the meeting in person. Ms. Leggat was a former resident of Bartam Trailer Park and wished to remind Council of the City's previous decision to retain the area for public use. Ms. Leggat noted costs associated with the removal of the trailers and lost revenue from the rental of the land which may have been recovered if the lots were sold to the former residents. Ms. Leggat feels strongly that the area should be retained for public use.



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16. Mr. David Gilday made a presentation with regard to a petition requesting that Council rescind By-law No. 4123, a by-law authorizing the City to sell the former Bartam Trailer Park site. Mr. Gilday felt that several sections of the Council Procedures By-law No. 4025 were violated when the by-law was presented for adoption and called for Council to rescind By-law No. 4123.
- Council referred the petition to Administration and requested that the Council Procedures By-law be reviewed.
17. Council heard a presentation from Mr. Mike Mrdjenovich, developer, who has submitted a proposal to develop the former Bartam Trailer Park area. Mr. Mrdjenovich stated that he submitted his proposal in good faith and indicated that his intention is to build a seniors complex. Mr. Mrdjenovich advised that he is not interested in building the development in any other location, noting that the development will cost between \$600,000 - \$700,000 more to accommodate additional amenities such as elevators and lounges for the seniors. Mr. Mrdjenovich noted that he has paid millions in taxes and employs 46 people in Yellowknife. Mr. Mrdjenovich cautioned Council of the message they may send to potential developers should they decide to turn down this proposal.
18. Council recessed at 9:05 p.m. and reconvened at 9:20 p.m.
19. Councillor Best returned to the meeting at 9:23 p.m.
20. Council heard a presentation from Ms. Joanne Jonkisz regarding a request for a grant from the Great Slave Animal Hospital. Ms. Jonkisz stated that the 1999 Board of Revision recommended that City Council adopt an agricultural property classification. The classification was adopted,



however, not in time to affect the year 2000 assessment. The 2000 Board of Revision has recommended that City Council provide a grant to the Great Slave Animal Hospital to provide retroactive effect to the classification. Ms. Jonkisz requested that Council support the recommendation of the Board of Revision.

MEMBER STATEMENTS

21. Councillor O'Reilly stated that he and Mayor Lovell met with Federal Minister of Labour, Claudette Bradshaw and MP Ethel Blondin-Andrew, who presented proposed changes to the Canada Labour Code. The Minister also met with the Giant Mine Pensioners and demonstrated an interest in this issue. Councillor O'Reilly indicated that the Minister is prepared to look at changes to the Labour Code to ensure workers rights are protected when bankruptcy happens and has commenced a study of what happens to workers when a company goes bankrupt. Councillor O'Reilly indicated that MP Ethel Blondin-Andrew has also been working hard on this issue and is trying to find a mechanism to get money to the workers.
22. Councillor Lyons announced the recent takeover of Windspear Diamonds Inc. by De Beers and suggested that the City extend an invitation to De Beers to meet with the City. Mayor Lovell advised that an invitation has already been extended.
23. Councillor Brooks advised that he recently attended a meeting with DIAND where representatives introduced a new Economic Development Fund. Councillor Brooks was able to confirm that environmental cleanup initiatives would qualify for funding and suggested that the City submit a proposal for the Giant Mine site.
24. Mayor Lovell made a statement with regards to a recent editorial in the *Yellowknifer*. Mayor Lovell took exception to the editorial stating that he felt it to be detrimental to his professional reputation as an accountant and demanded the accountability of the press.



INTRODUCTION AND CONSIDERATION OF COMMITTEE REPORTS

Priorities, Policies and Budget Committee Report for July 24, 2000

25. Councillor O'Reilly read a report of a meeting held on Monday, July 24, 2000 at 12:05 p.m. in the City Hall lower boardroom. The attendance was noted.
26. There was no business arising from the meeting.

Special Priorities, Policies and Budget Committee Report for August 3, 2000

27. Councillor O'Reilly read a report of a special meeting held on Thursday, August 3, 2000 at 12:05 p.m. in the City Hall lower boardroom. The attendance was noted.
28. There was no business arising from the meeting.

Special Priorities, Policies and Budget Committee Report for August 8, 2000

29. Councillor O'Reilly read a report of a special meeting held on Tuesday, August 8, 2000 at 12:05 p.m. in the City Hall lower boardroom. The attendance was noted.
30. There was no business arising from the meeting.

Special Priorities, Policies and Budget Committee Report for August 21, 2000

31. Councillor O'Reilly read a report of a special meeting held on Monday, August 21, 2000 at 12:05 p.m. in the City Hall lower boardroom. The attendance was noted.
32. There was no business arising from the meeting.
33. Councillor Best excused herself from the meeting at 9:47 p.m.



Public Services Committee Report for August 22, 2000

34. Councillor Slaven read a report of a meeting held on Tuesday, August 22, 2000 at 9:00 a.m. in the City Hall lower boardroom. The attendance was noted.
- #0291-00 35. Councillor Slaven moved,
Councillor Woytuik seconded,

That Council approve the proposal submitted by 994552 N.W.T. Ltd. for the purchase and development of the former Bartam Trailer Court area, subject to:

1. The adoption of amendments to Section 4.13. of Zoning By-law No. 4024 that will:
 - a) recognize Multi-Family Residential, including apartment buildings, as a Permitted Use on the subject lands only within the "OM" - Old Town Mixed Use zone; and
 - b) implement site density requirements acceptable to Council and specific to the subject lands;
2. The establishment of conditions in the development and purchase agreements granting the City first option for the re-acquisition of any residual lands created by future subdivisions of the subject lands;
3. The proponent entering into appropriate development and purchase agreements with the City; and



4. The proponent submitting additional detailed plans and obtaining a Development Permit approved under Zoning By-law No. 4024.

- #0292-00 36. Councillor Slaven moved,
Councillor Woytuik seconded,

That the motion be amended by replacing item no. 1 with:

1. The purchaser securing an amendment to the Zoning By-law that will:
 - (a) recognize Multi-family Residential, including apartment buildings, as a Permitted Use on the subject lands; and
 - (b) allow for site density requirements appropriate for the proposed development.

Administration noted that the amendment would put the onus on the developer to seek a zoning change as well as provide Council with more flexibility to allow site specific zoning.

MOTION TO AMEND CARRIED UNANIMOUSLY

Council debated the motion, as amended, at length. Those in favour of the motion stated that Council has already decided that the site should be developed with the adoption of the land disposal by-law. The proposal submitted meets the criteria set out in the Request for Proposals and will help to find a balance between private and public use in the area. The draft waterfront study incorporates a trail system in the area, protects the wetlands and calls for a heritage



waterfront park, all of which will help promote tourism and create stability in the area. Those in favour argued that this proposal fits within the vision for this area of the community.

Those opposed to the motion stated that it would be premature to accept the proposal without conducting a full study of the entire area to determine its best use. Council noted that the City currently has a land inventory valued at \$10 million and suggested that the City develop a business plan for land disposal. Those opposed to the motion noted that the City does not have widespread community support for this proposal and stated that it would be improper to go forward with it at this time. The majority of Council agreed that this proposal was not what they had envisioned for this site, but agreed that development is required to support amenities such as public use areas.

MOTION DEFEATED

(Councillors Brooks and Woytuik in favour)

- #293-00 37. Councillor Slaven moved,
 Councillor McDonald seconded,

That the City not enter into a purchase agreement for the subject land with the owners of Lots 1, 2 and 3, Block 120, Plan 634 (Gitzel Street).

MOTION CARRIED UNANIMOUSLY

- #0294-00 38. Councillor Slaven moved,
 Councillor Lyons seconded,

That By-law No. 4129 authorizing the City to dispose of portions of road in Block 9, Plan 984 be presented for adoption.

MOTION CARRIED UNANIMOUSLY



Corporate Services Committee Report for August 22, 2000

39. Councillor Brooks read a report of a meeting held on Tuesday, August 22, 2000 at 10:30 a.m. in the City Hall lower boardroom. The attendance was noted.

- #0295-00 40. Councillor Brooks moved,
Councillor Best seconded,

That Council provide a grant to the Great Slave Animal Hospital Ltd. of 75% of the municipal taxes levied for 2000, which would be \$6,909.22.

Council noted that this matter is as a result of Council's delay and not that of the proponents. Council advised the proponents that should a grant be authorized, that it would be for this year only and further advised that Council will be reviewing the definition of "agricultural" in the Property Classification By-law and will be setting the mill rate for same at a later date.

In response to questions from Council, Administration advised that the proponents decided to build to the National Building Code standards and that the activity of the development would determine its classification.

**MOTION CARRIED
(Councillor Woytuik opposed)**

- #0296-00 41. Councillor McDonald moved,
Councillor Brooks seconded,

That the meeting be extended past 11:00 p.m.

MOTION CARRIED UNANIMOUSLY



42. Council recessed at 11:03 p.m. and reconvened at 11:10 p.m.

#0297-00 43. Councillor Brooks moved,
Councillor Lyons seconded,

That Council appoint MacKay & Partners as the City's auditor for the year ended December 31, 2000.

Council noted that this is a one year extension of the current contract.

MOTION CARRIED UNANIMOUSLY

ENACTMENT OF BY-LAWS

44. By-law No. 4129 - A by-law to authorize the City to dispose of portions of road in Block 9, Plan 984 (adjacent Air Tindi), was presented for First and Second Reading.

#0298-00 45. Councillor Slaven moved,
Councillor McDonald seconded,

First Reading of By-law No. 4129.

MOTION CARRIED UNANIMOUSLY

#0299-00 46. Councillor Slaven moved,
Councillor Best seconded,

Second Reading of By-law No. 4129.

MOTION CARRIED UNANIMOUSLY

47. By-law No. 4127 - A by-law to establish an Audit Committee, was presented for Third Reading.

#0300-00 48. Councillor Brooks moved,
Councillor McDonald seconded,

Third Reading of By-law No. 4127.

MOTION CARRIED UNANIMOUSLY



49. By-law No. 4128 - A by-law to replace Schedule I of By-law No. 3536 by deleting Cory Wade Bronson and appointing Daryle Weseley Foster as a By-law Officer, was presented for Third Reading.

- #0301-00 50. Councillor Brooks moved,
Councillor Woytuik seconded,

Third Reading of By-law No. 4128.

MOTION CARRIED UNANIMOUSLY

DEFERRED BUSINESS AND TABLED ITEMS

51. There was no deferred business and there were no tabled items.

OLD BUSINESS

52. There was no old business.

NOTICES OF MOTION

53. There were no notices of motion.

DELEGATIONS PERTAINING TO ITEMS NOT ON THE AGENDA

54. Mr. Mike Byrne made a presentation with regard to disclosure of campaign funding. Mr. Byrne noted that the City of Yellowknife has submitted a resolution to the NWT Association of Municipalities advocating the disclosure of campaign funds and suggested that Council encourage this year's municipal election candidates to do so.
55. Council recessed at 11:17 p.m.



56. Council reconvened at 12:20 p.m., Tuesday, August 29, 2000 with the following Members in attendance:

Present: Mayor D. Lovell,
Councillor C. Best,
Councillor B. Lyons,
Councillor B. McDonald,
Councillor K. O'Reilly,
Councillor R. Slaven, and
Councillor A. Woytuik.

City Staff: M. Hall,
R. Charpentier,
G. Craig,
T. Mercer,
D. Nicklen,
G. White, and
D. Euchner.

NEW BUSINESS

57. A memorandum regarding acquisition of a leasehold interest in a portion of the current Giant Mine lease from Miramar Mining Corporation (Giantco) as well as the adjacent Federal water lot lease.
58. Councillor Slaven moved
Councillor Woytuik seconded,

That:

1. By-laws No. 4125 and 4126, being by-laws to authorize the City to acquire a leasehold interest in the subject properties be presented for Second and Third Reading.
2. The Mayor and City Administrator be authorized to enter into release agreements with the Governments of Canada and the Northwest Territories for the subject properties.



Councillor O'Reilly provided an overview of a recent Priorities, Policies and Budget Committee meeting where representatives of DIAND and the GNWT provided an update concerning funding for the environmental cleanup of this site. Councillor O'Reilly noted that DIAND is prepared to remediate the property to an industrial base level and that the City may be partially responsible for any higher level of clean up.

Council noted that the level of clean up is yet to be determined and that a further study of the site is required to determine the current state of the property and the technology required to remediate it. Council further noted that the two higher levels of government have agreed that it is their responsibility to clean up the property to at least an industrial standard.

Council noted that the City is able to terminate the lease agreement at any time should the property not be remediated to the City's satisfaction. The majority of Council agreed that it would be in the City's best interest to lease the property noting that the City will control the use of, have access to and will gain tax revenue from, the property.

MOTION CARRIED
(Councillor O'Reilly opposed)

59. By-law No. 4125 - A by-law to authorize the City to acquire a leasehold interest in a parcel of land more particularly described as all that portion of Lot 1039, Quad 85J/9 in the City of Yellowknife, (Giant Mine), was presented for Second and Third Reading.



-
- #0302-00 60. Councillor Slaven moved,
 Councillor Best seconded,

Second Reading of By-law No. 4125.

**MOTION CARRIED
(Councillor O'Reilly opposed)**

- #0303-00 61. Councillor Slaven moved,
 Councillor Woytuik seconded,

Third Reading of By-law No. 4125.

**MOTION CARRIED
(Councillor O'Reilly opposed)**

62. By-law No. 4126 - A by-law to authorize the City to acquire a leasehold interest in a parcel of land more particularly described as all that certain parcel of tract of land situate, lying and being composed of the whole of a waterlot in Yellowknife Bay, in Great Slave Lake, and centered approximately on 62° 29' North Latitude and 114° 22' West Longitude in Quad 85J/8 in the Northwest Territories (Giant Mine), was presented for Second and Third Reading.

- #0304-00 63. Councillor Slaven moved,
 Councillor McDonald seconded,

Second Reading of By-law No. 4126.

**MOTION CARRIED
(Councillor O'Reilly opposed)**



- #0305-00 64. Councillor Slaven moved,
 Councillor Lyons seconded,

Third Reading of By-law No. 4126.

MOTION CARRIED
(Councillor O'Reilly opposed)

ADMINISTRATIVE ENQUIRIES

65. In response to questions from Council, Administration advised that the contract for installation of the audible signals has been awarded and that they will be installed in September. Administration further provided a status update on the City's capital works projects.
66. In response to a question from Council, Mayor Lovell advised that he has forwarded correspondence to De Beers congratulating them on their recent acquisition of Windspear Diamonds Inc. Mayor Lovell further advised that he will work together with the Economic Development Department in an effort to persuade De Beers to locate their headquarters in Yellowknife.

ADJOURNMENT

- #0306-00 67. Councillor Best moved,
 Councillor Lyons seconded,

That the Meeting be adjourned at 1:00
p.m.

MOTION CARRIED UNANIMOUSLY

Mayor

City Administrator



APPENDIX C:
1996 Geotechnical Study

**GEOTECHNICAL EVALUATION FOR
PROPOSED TWIN ARENA AND
COMMUNITY CENTRE
YELLOWKNIFE, N.W.T.**

OCTOBER, 1996

0701-96-12463

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1.0 INTRODUCTION

1.1 GENERAL

This report presents the results of a geotechnical evaluation conducted by EBA Engineering Consultants Ltd. (EBA) for the proposed new twin arena and community centre complex in Yellowknife, N.W.T.

The objectives of this evaluation were to determine stratigraphy and subsurface ground conditions at the proposed project site and to develop geotechnical recommendations for foundation design and construction.

Authorization to proceed with this evaluation was received by phone on August 21, 1996, from Mr. Max Hall, Director of Community Services, City of Yellowknife (City).

1.2 SCOPE OF WORK

EBA's understanding of the required scope of work is based on a proposal submitted to the City on August 9, 1996, follows.

- Carry out a utilities locate at the proposed site, contract a drilling contractor and arrange for mobilization of the drill rig to site.
- Determine the required number of boreholes and their location.
- Log boreholes to determine stratigraphy classification of frozen and unfrozen soils. Collect soil samples from drill cuttings in each hole and retain for future laboratory testing.
- Determine soil properties such as moisture contents, frost susceptibility, grain size distribution, plastic and liquid limits and soluble sulphate content data.
- Provide a geotechnical report with recommendations outlining feasible foundation design alternatives and corresponding design details.

2.0 PROJECT DESCRIPTION

The project site investigated is one of several potential sites being considered for the arena and community centre complex. The proposed complex is understood to comprise two covered arena structures connected to a community centre. The arrangement of the arenas in relation to the community centre is unknown at present, but may consist of constructing the community centre either at ground level alongside the arenas or on the continuous bedrock outcrop west of, and overlooking, the arenas. It is understood that the footprint of the complex could be approximately 160 m by 40 m.

The vacant lot north of the site investigated may become the parking area for the complex.

It is understood that a mine haul road may have been constructed across the site at some previous date.

Figure 1 presents a site location plan. Site photographs are presented in Appendix C.

3.0 METHOD OF INVESTIGATION

3.1 SITE INVESTIGATION

The site investigation was carried out by Mr. Robert Lachance, P. Eng., of EBA on September 3, and 4, 1996. The drilling contractor was ABT Engineering Ltd. of Rae, N.W.T.

A total of six boreholes were drilled on the proposed site using a mobile B-47 truck mounted geotechnical drill rig. The drill was equipped with approximately 14 m of 150 mm diameter solid stem auger and was capable of carrying out Standard Penetration Tests (SPTs). Borehole depths ranged from 1.5 m in Borehole 1 to 13.0 m in Borehole 2. Borehole locations were determined in the field by Mr. Lachance and are presented in Figure 2.

Boreholes were not drilled in the potential parking area, north of the proposed building area, because of the uncertain location of buried utilities in this area.

Boreholes were logged by EBA. Soils were classified, conditions of excess ice were noted and soil stratigraphy was determined. Samples representative of material removed from the boreholes were bagged and retained for laboratory analysis.

3.2 LABORATORY TESTING

Laboratory tests performed on samples retained from boreholes included moisture content and grain size analysis. Laboratory test results are presented with the borehole logs in Appendix B

4.0 SITE DESCRIPTION

4.1 LOCATION

The proposed site for the new arena and community centre facility is located on the west side of School Draw Avenue, and near the intersection of School Draw Avenue and Franklin Avenue. The site is bounded by an essentially vacant lot, with a substation and sewage pumphouse near the southwest corner of the lot. The site is relatively level at an elevation approximately 159 m above sea level. The elevation at the bedrock outcrop at its highest point is in excess of 183 m above sea level.

4.2 SURFACE CONDITIONS

The proposed site is marked by remnants of an abandoned trailer court. Remnants include the asphalt crescent off of School Draw Avenue with attached asphalt driveways, several electrical pedestals, one transformer, two 1.1 m diameter shallow sumps and abandoned utilities. Where organic cover was present, it generally ranged from 25 mm to 150 mm in thickness and consisted of surface grasses growing from a black fibrous mat. Where organic cover was absent, surface material ranged from fine-grained sands to gravelly sands.

4.3 SOIL CONDITIONS

Ground stratigraphy generally consists of fill over native, fine-grained, silty sand.

Fill thickness ranged from 0.9 m in Borehole 6 to 2.4 m in Borehole 4 and averaged 1.5 m. The fill was generally comprised of sand or gravel at the surface, clay in the middle and gravel, cobbles and boulders (possibly blast rock) at the bottom. Moisture contents in the sand or gravel ranged from 4 percent to 18 percent and averaged 9 percent. Moisture contents in the clay ranged from 18 percent to 31 percent and averaged 23 percent.

A layer of peat, approximately 100 mm thick, was found at the base of the fill in Boreholes 4, 5 and 6. This distinguished the overlying fill from the underlying native soil.

Native soil underlying the peat generally consists of silty, fine-grained sand or sand and silt. Moisture contents ranged from 18 percent to 49 percent and averaged 23 percent. This soil is interpreted to be loose, based on the SPT blow counts. The findings from drilling may underestimate the consistency of the soil. It has been EBA's experience that local sand and silt is relatively dense in an undisturbed state. It is difficult to drill into this soil, below the water table, without disturbing the soil. Therefore, the interpreted consistency may reflect a disturbed condition.

Bedrock was not encountered in any boreholes. Depths to bedrock are not known.

Details of the soil conditions are presented on the borehole logs in Appendix B.

4.4 PERMAFROST

Yellowknife is in the zone of discontinuous permafrost. The presence of permafrost was confirmed in Borehole 3 below a depth of 2.4 m and in Borehole 6 below a depth of 3.8 m. High moisture content measurements suggest that permafrost may also exist in Boreholes 4 and 5. The moisture content data suggest that the permafrost, where present, contains approximately 10 percent excess ice by mass, on average. It is expected that the permafrost, where present, is within about 1°C of thawing.

4.5 GROUNDWATER CONDITIONS

Groundwater was found at all borehole locations. The depth to groundwater was measured to be 1.5 m below grade, at Borehole 6, six days after drilling. The backfill in this borehole had collapsed, permitting the water to be measured.

Groundwater levels can be expected to fluctuate seasonally and in response to precipitation.

5.0 RECOMMENDATIONS

5.1 GENERAL

The site subsoil conditions are somewhat variable and are considered to be potentially troublesome for the proposed construction. The presence of sporadic, marginally frozen permafrost beneath the site is of most concern for development.

A pile foundation is recommended for most of the site, for the arenas in particular. Footings supported on soil are generally not recommended because of the potential for settlement if permafrost thaws. Footings will be feasible towards the rear of the site, on the bedrock outcrop or where bedrock is shallow. Therefore, footings could be considered for the community hall portion of the development, if it is set back on the outcrop.

The construction of grade supported floor slabs is not recommended, again because of the potential for settlement if permafrost thaws. Therefore, structurally supported floor slab is recommended. EBA estimates that a structural slab and its foundation would cost on the order of \$500,000 more to construct than a slab-on-grade floor.

Groundwater was 1.5 m below grade around the time of the investigation. Seepage should be expected if excavations extending more than about 1 m below present grade are required during construction. A permanent dewatering system is recommended if portions of the development are constructed below grade.

Trafficability for construction traffic is expected to generally be good. The trafficability can be expected to deteriorate following periods of heavy rain and during the spring thaw.

All recommendations presented in this report are based on the assumption that an adequate level of monitoring will be provided during construction, and that all construction will be carried out by suitably qualified contractors, experienced in earthworks and foundation construction in the Fort Smith area. Adequate levels of monitoring are considered to be:

?

- For earthworks, full-time monitoring and compaction testing;
- For deep foundations, design review and full-time construction monitoring; and
- For shallow foundations, observation of all bearing surfaces prior to concrete or mud slab placement.

All such quality assurance monitoring should be carried out by suitably qualified persons, independent of the contractor. One of the purposes of providing an adequate level of monitoring is to check that the provided recommendations, which are based on the findings at discrete borehole locations, are relevant to other areas of the site.

5.2 FOUNDATIONS

5.2.1 Rock Socket Steel Pipe Piles

Steel pipe piles socketed into bedrock are recommended at this site. Depths to bedrock have not been confirmed but exceed the borehole depths ranging between 5.3 m (Borehole 6) and 13.0 m (Borehole 2). The depths of the boreholes were limited by the length of available auger at Borehole 2 and by budget considerations at other borehole locations. It is recommended that, if this site is to be developed, probe holes to confirm depths to bedrock be drilled prior to tendering.

The saturated silty sand underlying the site can be expected to cause problems with seepage and sloughing if the installation of "conventional" rock socket steel pipe piles is attempted. It is recommended that an ODEX or comparable system be used to advance the pipe to rock. ODEX is a drill-drive casing installation system developed by Atlas Copco/Sandvik AB of Sweden for drilling through overburden and seating casing into rock. An eccentric drill bit reams the hole slightly larger than the casing and a down-the-hole (DTH) hammer drives the casing forward using standard rotary-percussion methods. A pilot bit works ahead of the reamer. When the desired casing depth is obtained, the eccentric reamer bit is reversed, collapsing it to allow withdrawal from the hole. Figure 3 presents sketches of the system. The following drilling steps are employed:

- Drill through the overburden to establish a seat into the bedrock;
- Remove the ODEX bit and charge the bottom of the hole with grout that is fluid and fast setting;
- Drive the casing to the bottom of the hole (into the grout) and allow the grout to set; and
- Drill out the grout plug and advance the rock socket the required distance below the casing shoe using a conventional bit on the DTH hammer.

This system does not eliminate seepage and sloughing in all cases, particularly where the bedrock is fractured, but it does significantly lessen the problem.

The piles should be designed and installed in accordance with the following recommendations:

- ODEX piles have locally been installed with up to 10" nominal diameter steel pipe (273 mm O.D.). A 215 mm diameter rock socket has been used. For preliminary purposes, a structural designer could assume 20 MPa allowable end bearing on the steel pipe and 500 kPa allowable bond in the rock socket. Piles have been designed to support loads up to about 1,500 kN in the past. It is recommended that the structural designer consult with EBA to determine an appropriate socket configuration once approximate design loads are known.
- The pile may require a reinforcing cage, depending on the magnitudes of uplift and lateral loads. This requirement should be determined by the structural engineer.
- It has been EBA's experience that a ring welded to the casing shoe, to reduce the gap between the rock and the casing, can reduce seepage and slough coming past the casing, if this is determined to be a problem.
- The casing should be seated a minimum of 300 mm into bedrock. Casing penetration into rock should be monitored. Fractures near the rock surface may result in excessive seepage and sloughing with only 300 mm of bedrock penetration. The depth of penetration may have to be increased.
- A quick setting grout capable of curing at cold ambient temperatures is recommended for the plug.
- The rock socket should not be drilled until the grout has set. Drilling the rock socket the day following grout placement is recommended.
- Concrete with a minimum 28-day compressive strength of 25 MPa should be used to backfill the pile holes. The use of super plasticiser is recommended. A minimum slump of 150 mm is recommended if there is no reinforcing cage. A minimum slump of 200 mm is recommended if there is a reinforcing cage.
- It will be desirable to pour the concrete very quickly after the rock socket is drilled. Slough in the bottom of the rock socket is not permitted, unless the rock socket has been lengthened to compensate for the slough. Concrete should be tremied if there is more than 100 mm of water in the bottom of the hole at the time of concrete placement.
- It is recommended that pile installations be monitored on a full-time basis by a representative of EBA.

5.2.2 Footings

The alternative to placing strip and spread footings directly on bedrock may be desirable for portions of the development where bedrock is exposed or relatively close to the surface.

The allowable static bearing pressure for the design of strip and spread footings may be taken as 10 MPa. This applies to minimum widths of 500 mm and 750 mm for strip and spread footings respectively. A maximum allowable bearing pressure of 1,000 kPa (1 MPa) should be assumed for foundation walls with a thickness of 150 mm to 200 mm. These values should be verified by a geotechnical engineer once the bedrock is exposed and inspected.

Rock anchors to resist uplift forces may be required for this foundation type. Design recommendations for rock anchors can be provided on request.

Footings should be cast onto a clean, stable rock surface. No loose or disturbed material should be allowed to remain on the bearing surface of footing excavations prior to pouring concrete. If acceptable bearing surfaces cannot be prepared using mechanical equipment, hand cleaning will be required.

Footing excavations should be protected from rain, snow, wetting, drying and inflow of groundwater at all times.

Footing excavations should be inspected by a representative of EBA to ensure that the bases are properly cleaned.

5.3 STRUCTURAL FLOOR SLABS

The moisture content data suggests that total settlements of up to 300 mm may result from thaw of permafrost below the site. Differential settlements of up to 200 mm may occur. Therefore, floor slabs-on-grade are not recommended at this site. Floor slabs should be structurally supported.

With any structurally supported floor slab system, there is a risk of movement of the ground beneath the slab relative to the slab. This can lead to problems if piping and other utilities that are connected to the slab are embedded within or supported by the ground beneath the slab. All services beneath structurally supported ground floor slabs should be protected from the effects of such differential movement. This can be accomplished by placing services within boxes suspended from the structural slab.

5.4 FROST PROTECTION

The soil at the site should be considered to be frost-susceptible; some seasonal frost heave may occur. If grade beams are used in conjunction with the piles, they should be protected against uplift forces resulting from frost heave by placing a void form below the grade beams. ETHAFOAM Nova brand polyethylene foam plank is recommended in this application. The plank comes in 50 mm thickness. A minimum of four layers, for a total thickness of 200 mm, is recommended below grade beams.

5.5 SITE GRADING AND DRAINAGE

It appears that natural site drainage is to the south and east. Final site grading should achieve positive drainage and direct water away from the building. EBA recommends that final grades within 3 m of the building or other structures be at 3 percent. Beyond that, minimum final grades of 1 percent for asphalt paved areas and 2 percent for gravel covered and landscaped areas are recommended.

Downspouts should be directed away from the building and a concrete splash pad, extending at least 1.8 m from the edge of the building, should be used to direct run-off away from the building.

5.6 EXCAVATIONS AND TRENCH BACKFILL

All excavations should be carried out in accordance with the Northwest Territories Safety Act and Regulations. For this project, the depth of excavations are anticipated to be relatively shallow. Utility trench excavations that are deeper than 1.5 m should have the sides shored and braced or the slopes cut no steeper than 1 Horizontal to 1 Vertical (1H:1V). Seepage and sloughing conditions should be anticipated in trenches excavated near or below the water table. Pumping may be necessary. Slopes flatter than indicated may be necessary for stability.

Temporary surcharge loads, such as construction materials or spill piles, should not be allowed within 3 m of an unsupported face. Vehicles delivering materials should be kept back from faces by at least 1 m. All excavations should be checked regularly for signs of sloughing, especially after periods of rain.

Trenches should be backfilled in such a way to minimize the potential for differential settlement or frost heave movements. The excavated soil is considered suitable for general trench backfill, outside the pipe zone. It is frost-susceptible but the soil adjacent to trenches is also frost susceptible. Compaction to a minimum of 95 percent of Standard Proctor maximum dry density (SPD) is recommended for all trenches, with the exception of the top 600 mm, which should be compacted to a minimum of 98 percent SPD. The upper 1.5 m of service trenches below paved areas should be cut at a maximum slope of 1H:1V to avoid an abrupt transition between backfill and in situ soil.

General recommendations regarding construction excavations, backfill materials and compaction are presented in Appendix D.

5.7 BACKFILL MATERIALS AND COMPACTION

Because a structural floor has been recommended, it is not anticipated that backfill will be required to raise the subgrade elevation. Should areas need to be raised to achieve design grades for landscaping, the on-site soils are considered suitable for this application. Alternatively, imported fill meeting the requirements of "landscape fill", as defined in Appendix D, may be used.

Further recommendations regarding backfill materials and compaction are included in Appendix D.

5.8 PAVEMENTS

It is assumed that paved areas will be desired for parking. It is further assumed that the pavement will be exposed mainly to light duty traffic; however, some areas of heavy duty traffic, including the main access areas and areas where large delivery trucks travel, are also expected. Light duty traffic includes passenger cars and light trucks (i.e. ½ tons), while heavy duty traffic also includes large delivery vehicles or garbage trucks.

The general site preparation should include stripping of all vegetation, sod and topsoil from the areas to be paved. The exposed subgrade should be proof-rolled to identify soft and/or particularly hard areas that should be over-excavated, moisture conditioned and recompacted prior to construction. The entire subgrade should be scarified to a depth of 150 mm and recompacted to a minimum of 98 percent SPD.

Areas requiring fill to achieve subgrade elevation should be stripped and proof-rolled as outlined above. Fill should comprise "general engineered fill", as defined in Appendix D.

It should be noted that despite appropriate preparation of the subgrade, movements of the pavement will be inevitable as the soil is frost susceptible. Nonetheless, if the recommendations presented herein are followed, the frost movements will be lessened and should also be relatively uniform. Asphalt paved areas can normally tolerate some vertical movements and at least some differential movement.

Using the assumed traffic loading conditions indicated above, and presuming the subgrade is prepared in accordance with the recommendations of this report, the following pavement structure is recommended:

Light Duty Traffic Areas

- 75 mm of Surface Course Asphalt Concrete over
- 150 mm of 20 mm Minus Crushed Gravel

Heavy Duty Traffic Areas

- 100 mm of Surface Course Asphalt Concrete over
- 250 mm of 20 mm Minus Crushed Gravel

The properties of the asphalt concrete should meet the City's specifications for surface course asphalt concrete and the properties of the 20 mm minus crush should conform with the recommendations in Appendix D, or similar local specifications.

It is recommended that concrete pads for garbage bins be constructed for use by garbage trucks. The loading intensity of the front axle of a garbage truck, during the garbage bin pickup, may exceed the stability of the recommended asphalt concrete. Therefore, it is recommended that a 150 mm thick concrete pad be constructed on 150 mm of compacted granular base material in accordance with specifications in Appendix D. The pads should be of sufficient size to ensure that both front and rear axles of the garbage truck will rest on the pad while it is raising the garbage bin.

Additional general recommendations for pavements can be found in Appendix D.

6.0 DESIGN AND CONSTRUCTION GUIDELINES

Recommended general design and construction guidelines are provided in Appendix D under the following headings:

- Backfill Materials and Compaction (4 pages)
- Construction Excavations (1 page)
- Pavements (1 page)
- Proof Rolling (1 page)

These guidelines are generic and are intended to represent standards of good practice. They have been developed largely from EBA's southern practice. We have attempted to address specific local requirements in the main text of this report. The guidelines are supplemental to the main text of the report. In the event of any discrepancy between the main text of the report and the guidelines in Appendix D, the main text should govern. The design and construction guidelines are not intended to represent detailed specifications for the works, although they may prove useful in the preparation of such specifications.

7.0 LIMITATIONS

The recommendations presented herein are based on the findings in six boreholes at discrete locations on the site. The conditions encountered in the boreholes are considered to be reasonably representative of the general conditions but if conditions other than those reported are encountered, EBA should be notified and given the opportunity to review the present recommendations.

This report has been prepared for the exclusive use of the City of Yellowknife, for specific application to the development described in Section 2.0 of this report. It has been prepared in accordance with generally accepted soil and foundation engineering practices. No other warranty is made, either-expressed or implied.

Reference should be made to the General Conditions in Appendix A of this report for further limitations.

8.0 CLOSURE

We trust that this report meets your present requirements. We would be pleased to provide any further information that may be needed during design and to advise on the geotechnical aspects of specifications for inclusion in the contract documents. If you require any additional information or construction monitoring services, please contact our office.

Respectfully submitted:

EBA ENGINEERING CONSULTANTS LTD.

Prepared by:

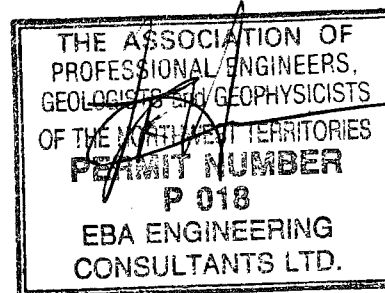
Reviewed by:



Robert G. Lachance, P. Eng.
Geotechnical Engineer

T. E. Hoeve, P. Eng.
Project Director, N.W.T.

RGL/rsr/12463RGL.RPT



APPENDIX D:
Relevant Sections from the 2011
General Plan

- f. use density bonusing to allow developers to build at a higher density than permitted in the base zoning in return for the provision of affordable housing. The developer may be required to enter into a housing agreement to maintain the affordability of the housing as a condition of the density bonus. Density regulations and conditions will be set out in the Zoning By-law.

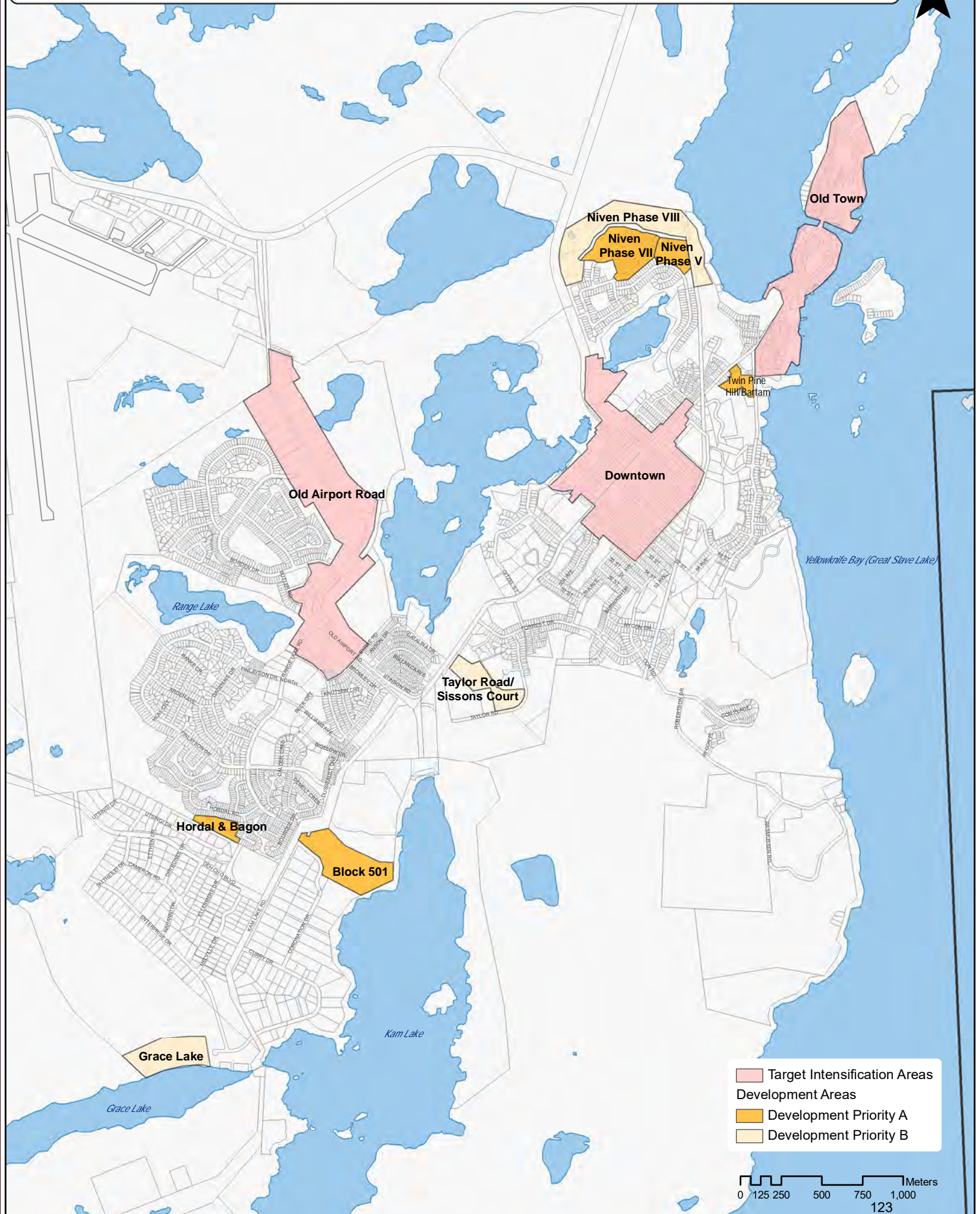
2.3.4 Residential Land Development & Development Priority

The Compact growth vision targets 45% of unit growth in target intensification areas. The remaining 55% of growth is targeted to redevelopment of and extensions to existing development areas. Table 5 indicates the development areas that have been identified to accommodate projected residential growth (Table 3) and the targeted growth by area (Table 4). Table 5 also indicates the priority for each new development area. Priority A lands are anticipated to be needed in the short-term (0 to 5 years) and the Priority B lands are anticipated for the medium-term (6 to 10 years). The location of development areas and their development priority are also illustrated on Figure 1.



Figure 1: Residential Land Development

N



- Target Intensification Areas
- Development Priority A
- Development Priority B

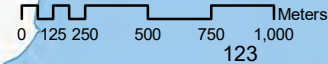


Table 5 – Residential land development, 2011 to 2021

Development	Potential no. of units	Development Priority
Target Intensification Areas (45%)		
Downtown (31% of total)	430	
Old Airport Road (10% of total)	135	
Old Town (4% of total)	55	
Sub-total	620 units	
Development Areas (55%)		
Niven Phase V	90	A
Niven Phase VII	195	A
Block 501 (south of correctional facility)	170	A
Hordal & Bagon	30	A
Twin Pine Hill / Bartam	75	A
Grace Lake ⁶	30	B
Niven Phase VIII (north of Phase VII)	190	B
Taylor Road / Sissons Court	100	B
Sub-total	880 units	
TOTAL	1,500 units	

Table 5 indicates a unit potential of 1,500 units while the projected 10 year need is 1,385 units. This total unit potential does not consider small-scale redevelopment opportunities outside of the target intensification areas, residential conversions, or creation of subordinate dwelling units. This type of activity will further increase the unit potential. All the lands identified in Table 5 are designated in this Plan for development. Land supply needs will be monitored with regards to actual rates of growth and demand for various housing types. Development Priority may change accordingly and will not require amendment to this Plan.

⁶ An analysis of land suitable for development has not yet been undertaken and therefore this number is subject to change.

3. Lands designated Waterside Residential will be zoned Waterside Residential (R0) in the Zoning By-law.
4. Park standards, pursuant to Section 3.3.1, do not apply to residences in the Waterside Residential designation.
5. When considering the designation of new Waterside Residential settlement by amendment to this Plan, in addition to the applicable Land Development Guidelines in Section 4.4 of this Plan, the City shall give consideration to:
 - a. Settlements do not impede the ability of the existing built-up area to expand and may not be located within 1 kilometre of the existing piped service area of the city.
 - b. Subdivisions will not create conflicts with non-residential uses that need to locate outside the built-up area, including mineral extraction activities, waste disposal sites, and expansion to industrial subdivisions;
 - c. Policy recommendations in the Yellowknife Harbour Plan which may restrict residential settlements in proximity to Great Slave Lake;
 - d. Potential restrictions on road access to a Highway, in consultation with the GNWT;
 - e. In consultation with Public Works, that the proposed residential settlement area can be accessed satisfactorily with trucked services;
 - f. The location of utilities including power and telephone;
 - g. Preservation of wildlife corridors;
 - h. Maintenance of Trails as shown on **Map 2**, and pursuant to policies of Section 3.3;
 - i. The preservation of public access for developments abutting waterfront lands shall be delineated by Development Scheme;
 - j. Privacy between adjacent residences through the retention of natural buffers.
6. All development in the Waterside Residential designation may be subject to special off-site levies as a condition of development approval.

3.5 Mixed-Use Designation

The Mixed-Use designation applies to areas that have been identified as having a high potential to maintain or achieve compact and mixed use developments, particularly through redevelopment and intensification. These areas constitute a critical element in the City's growth management strategy and intensification targets as outlined in Section 2 of this Plan.

Areas designated Mixed Use include a portion of Old Town, lands along Old Airport Road, and a parcel of land along the south side of Franklin Avenue, just west of Downtown. These areas have good access to major roads (Old Airport Road and Franklin Avenue) which are the focus of proposed transit-oriented

development nodes and streetscaping improvements in support of active transportation. These areas are ideally located and will be designed to accommodate an increase in housing, commercial, institutional, and recreational uses, thereby contributing to a vibrant, mixed use environment. Careful attention to design is required in target intensification areas, particularly in areas like Old Town, where new development should be compatible and respectful of the unique character of the neighbourhood. The policies of this designation therefore seek to promote sensitively designed infill which is compatible with the existing built form with consideration for the planned future form of the area.

Policies:

1. Lands designated Mixed Use are shown on **Map 1**. The lands offer substantial opportunities for new development or redevelopment and represent a key element in this Plan's strategy to accommodate and direct growth in the city.
2. Lands designated Mixed Use encourage a mix of transit-supportive land uses including residential, offices, commercial services, retail uses, institutional, parks and community recreation uses. The permitted form and location of these uses will vary according to the specific location and the policies below. Low intensity uses such as motor vehicle sales, service, rental and repair, and transportation-related facilities are intended to be phased out over the longer term but may be conditionally permitted uses in the Zoning By-law in the shorter term. Significant community facilities and major recreation facilities serving the entire community will be accommodated under other land use designations.
3. Lands designated Mixed Use will be zoned Old Town Mixed Use (OM), Old Airport Road (OAR), and Site Specific (SS) in the Zoning By-law.
4. Lands designated Mixed Use are target areas for intensification pursuant to the Strategic Framework outlined in Section 2. To ensure all new development is consistent with community design objectives and compatible with existing and future planned uses, all development projects within the Mixed Use designation will be subject to the Community Design policies in Section 4 of this Plan. Lands along Old Airport Road and in Old Town are defined as Character Areas, pursuant to policies in Section 4.2.
5. Mixed Use areas shall optimize the use of land through compact, mixed use development. To achieve this type of development, the Zoning By-law may address the following:
 - a. Allow for a mix of uses within a building or in adjacent buildings;
 - b. Reduce off-street parking requirements pursuant to policies in Section 5.7;
 - c. Permitting higher density commercial (office) and residential development and discouraging low intensity development, such as single family residential development, within 120m of a Transit-Oriented Development Node, as shown on **Map 4**, and pursuant to policies in Section 5.3;

- d. Require residential uses on lots fronting on an Arterial Road to be in the form of apartments or multi-family developments at a medium or high density;
 - e. Implementation of minimum building heights for lots with frontage on Arterial Roads (ie. Old Airport Road and Franklin Avenue, from Old Airport Road to Weaver Drive);
 - f. Ensure an appropriate transition between lands designated Mixed Use and any surrounding lands designated Residential Community through zoning regulations, such as including a transition overlay zone in which building heights can be increased/reduced to a certain extent, and requiring green buffers between the Mixed Use and Residential Community designation.
6. The City may adopt a Land Assembly Strategy for lands designated Mixed Use in Old Town to assemble lots for intensification, to develop a mixed-use waterfront marina and/or to support any additional objectives of the Yellowknife Harbour Plan, currently under development.
 7. The policies of the Mixed Use designation shall be amended, as required, to be consistent with the policy recommendations of the Yellowknife Harbour Plan.
 8. To make land available for intensification on lands designated Mixed Use, existing industrial uses are encouraged to relocate over time to the Engle Business District. The City's Development Incentive Program By-law offers incentives to assist with the relocation of industrial uses.
 9. Lands designated Mixed Use will have enhanced opportunities for walking, cycling, and transit use. Policies to support these opportunities include:
 - a. Creation of Transit-Oriented Development Nodes, as shown on **Map 4**, and pursuant to the policies of Section 5.3. Identified TOD Nodes may be designated as an overlay zone in the Zoning By-law with intensification regulations incorporated;
 - b. Priority through Capital Budgeting shall be given to improved streetscaping along Arterial Roads (e.g. Franklin Avenue, Old Airport Road) to address pedestrian accessibility, comfort and safety, pursuant to policies in Section 5.1;
 - c. Ensuring all new significant developments, particularly those fronting on an Arterial Road, have a recognizable pedestrian circulation system that connects development to pedestrian facilities in the road right-of-way, to transit infrastructure, and to adjacent developments, where applicable.
 - d. Establishing a boardwalk system along the waterfront (Rotary Park-McMeekan Causeway).
 10. Lands designated Mixed Use located north of Borden Drive to Cemetery Road are currently serviced with trucked water and wastewater. Significant intensification of these lots is not possible without the provision of piped municipal services. The City will consider undertaking a study in partnership with the GNWT to examine the feasibility of extending municipal services along Old Airport Road, pursuant to policies in Section 6.2. Until piped municipal services are installed, the lands designated Mixed Use located north of Borden Drive to Cemetery Road are not considered part of the City's Intensification Target Areas.

11. The redevelopment or revitalization of the lands designated Mixed Use on the site of the Tommy Forrest Ball Park will be subject to the policies of the Community Engagement Overlay in Section 3.7, Policy 4.

3.6 Community Facilities Designation

The Community Facilities designation recognizes lands used for major community facilities that service the entire community, such as the Fieldhouse, the Multiplex, the Ruth Inch Memorial Pool, the Stanton Territorial Hospital, and the North Slave Correctional Centre. These uses constitute an essential component of city services and share characteristics that require special land use considerations. These uses generally require large sites to accommodate high volumes of visitors and therefore must be well located to be conveniently and safely accessed by all modes of transportation.

Policies in the designation ensure sufficient well-located lands are available for new major community facilities and ensure that these uses are compatible with surrounding uses. Smaller-scale community facilities such as schools, day care centres, places of worship, clubs, and medical clinics, are accommodated throughout the city within multiple other land use designations. The Yellowknife Airport is a facility that services the entire community but is accommodated within the Airport Designation.

Policies:

1. Significant community facilities intended to serve the entire community are located on lands designated Community Facilities. Permitted uses on lands designated Community Facilities includes regional hospitals, correctional institutes, indoor recreational facilities, post-secondary educational facilities, and cemeteries, but does not include airports. Commercial uses accessory to the principal use, such as retail uses or restaurants, shall also be permitted.
2. Lands designated Community Facilities will be zoned Public Service (PS) and Parks and Recreation (PR) Zone in the Zoning By-law.
3. New major community facilities will have direct access to an Arterial Road that is serviced by transit. Where a proposed facility does not have direct access to an Arterial Road, a traffic impact study is required that examines the capacity of the surrounding road network to accommodate the anticipated traffic volumes and recommend mitigation measures or roadway modifications where appropriate.

Site Design

4. All new City-owned facilities will achieve LEED Silver or measurable equivalent standards as the minimum development standard.
5. Priority shall be given to providing walking, cycling, and public transit connections to and from uses within the Community Facilities designation in order to promote active transportation and transit access and reduce the traffic impact on surrounding uses. The main building entrance of a new facility should be within 150 m walking distance of a transit stop.

4.2 Character Areas

4.2.1 Old Town

Old Town is recognized as an integral part of Yellowknife's history and a major part of the unique character and personality of the community. The redevelopment vision for this area responds with the careful and incremental redevelopment of key sites and waterfront areas to add additional activity, increase public waterfront access, while at the same time respecting the organic and authentic character of the area. Old Town is characterized by eclectic building forms, human scale streets, modern and rustic materials, an active and natural waterfront, prominent rock outcroppings, and a diversity of people and activities that reflect the independent, industrious and artistic culture of Yellowknife. The design guidelines and statements of this section are intended to reinforce the established character of Old Town.

A new Harbour Plan is being prepared and may contain a further definition of the character of Old Town. Amendments to the guidelines below may result from the adoption of the Harbour Plan.

Policies:

1. Intensification proposals in Old Town, as described on **Map 3**, should conform to the following design guidelines and statements:
 - a. Design of buildings should celebrate the eclectic character of built form in Old Town by sensitively contrasting building massing, materials, and colour.
 - b. Massing and scale of buildings should respect the human-scale of Old Town streets, respond to any adjacent public gathering spaces, and emphasize priority of pedestrian activity.
 - c. Redevelopment of lots that include waterfront must incorporate public access to the waterfront into the site design.
 - d. Development in proximity to Pilot's Monument Rock and McAvoy Rock shall not detract or obscure the Rocks' distinctiveness. Development should have a form that fits with the contours and does not dominate the terrain. Finishing materials should fit in with the natural terrain.
 - e. Prominent views to the lake from public gathering spaces are to be maintained, wherever possible.
 - f. No building should exceed 3 storeys in height. Exceptions to this height limit will be considered for sites along Franklin Avenue (west of Weaver Drive), subject to conformity with compatibility criteria in Section 4.1 and to the design guidelines of this section.

4.2.2 Downtown – Core & Transitional Area

Downtown is a focal point for business, shopping, tourism and entertainment in the City. Reinvestment, revitalization, and intensification of the Downtown are key strategies in the Smart Growth Development Plan. The redevelopment vision therefore focuses on mixed use developments, a range of housing types,

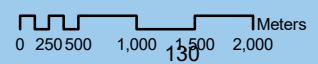
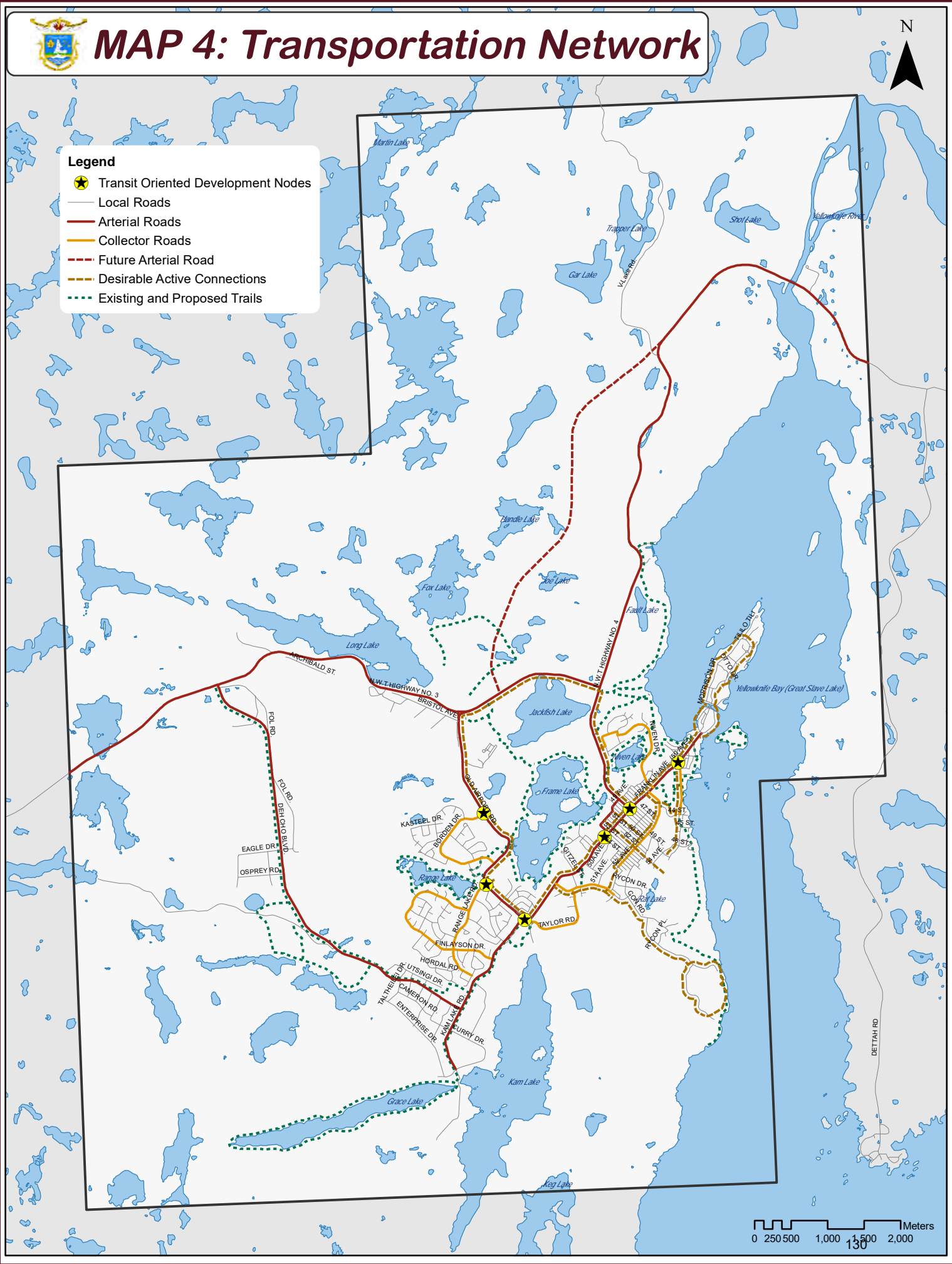


MAP 4: Transportation Network



Legend

- Transit Oriented Development Nodes
- Local Roads
- Arterial Roads
- Collector Roads
- Future Arterial Road
- Desirable Active Connections
- Existing and Proposed Trails



ridership through compact and transit-oriented development and ensure active transportation infrastructure that supports safe and convenient access to bus stops. Given the harsh climate in Yellowknife, the integration of bus stops into major developments located along Arterial or Collector Roads presents an opportunity to improve rider comfort and the attractiveness of transit.

Policies:

1. The City will co-ordinate bus stop locations with the layout of pedestrian infrastructure, intersections, and development patterns in order to minimize walking distances to bus stops and to allow for efficient stop spacing.
2. Improvements to an adjacent bus stop may be required as a condition of development approval.
3. Transit service shall be considered in the design of new development areas, pursuant to the Land Development Guidelines in Section 4.3.
4. The City may require any new large-scale institutional or government buildings located on an Arterial Road to incorporate bus stops or indoor waiting areas with good visibility to the outside into building design. These waiting areas or bus stops may be integrated with the main entrance lobby, or as a separate area adjacent to the main entrance. A pull-in adjacent to the road allowance may need to be incorporated into site design. The size and type of development subject to this requirement may be regulated in the Zoning By-law.

5.3 Transit Oriented Development Nodes

Transit Oriented Development (TOD) is compact, mixed use development planned around a transit facility. The Transportation Improvement Study (2010) recommended the creation of six Transit-Oriented Development Nodes along Franklin Avenue and Old Airport Road, as identified on **Map 4**. TOD Nodes are aimed at increasing transit ridership by promoting transit-supportive land uses and amenities. Over time, each TOD will offer housing, shopping and employment in a walkable and bike-friendly environment within a short walking distance of a bus shelter. Properties in which a majority of the property falls within 120 metres of the transit stop are considered to be within the designated Transit Oriented Development Node.

Policies:

1. Six (6) Transit-Oriented Development (TOD) Nodes are shown on **Map 4**. The TOD Nodes are located along Franklin Avenue and Old Airport Road. All properties in which a majority of the property falls within 120 metres of the transit stop are considered to be within the designated Transit Oriented Development Node.
2. Within each TOD Node described in Policy 1 above, the City may undertake the following:
 - a. Encourage mixed-use and medium to high-density development;
 - b. Discourage auto related development such as uses that generate a high level of vehicle activity, requires extensive parking or consume a large amount of land through low-density form;
 - c. Install well-designed, all-season transit shelters and wait areas for riders;

- d. Seek opportunities to integrate bus waiting areas into new development, pursuant to Policy 4, Section 5.2;
 - e. Encourage ground floor retail adjacent to transit stop;
 - f. Improve streetscapes to provide excellent pedestrian connectivity and routes that are safe, efficient and barrier free; and
 - g. Regulate the use and form of development in the Zoning By-law.
3. Council will consider the development of Transit Oriented Development Guidelines to provide a framework for evaluating development within the designated TOD Nodes.

5.4 Roads

The City is committed to the development of a road network which will provide safe and convenient access between areas of the City for all modes of transportation. The General Plan provides direction with respect to road classification and direction for future road works. More detailed direction can be found in the Transportation Improvement study (2010). **Map 4** illustrates the transportation network and road classification system. Three classifications are described below: Arterial, Collector, and Local Roads.

The City will prepare Municipal Design Standards, pursuant to Section 8.1, to provide guidance and present minimum standards for municipal infrastructure such as road right-of-way widths and design, streetscaping, trails, municipal servicing and utilities. All lands subject to subdivision will be required to be subdivided in accordance with the Municipal Design Standards to ensure adequate road rights-of-way for the desired infrastructure. The Transportation Improvement Study provides detailed direction with respect to priorities for all road works. It should be noted however that not all recommendations are feasible or will be constructed or improved within a specific time period or sequence.

5.4.1 Arterial Roads

Arterial Roads provide the backbone to the City carrying the largest volumes of traffic. Direct access to Arterial Roads is not encouraged, except where local circumstances do not provide alternatives. On street parking will generally be limited. Arterial Roads include:

- Franklin Avenue – the main road linking Downtown to Old Town and Old Airport Road;
- Old Airport Road – links Franklin Avenue to Highway 3;
- Highway 3 – provides a link to the airport from Highway 4 and Old Airport Road;
- Highway 4 – provides access north of the City;
- Deh Cho Boulevard – connects Highway 3 to Kam Lake Road and provides access to the Engle Business Park.
- Kam Lake Road – connects Franklin Avenue and Old Airport Road to Deh Cho Boulevard and beyond to Grace Lake.

Highway 4 is proposed to be rerouted around the mine hazard areas of Giant Mine. Three potential alignments are under consideration by the GNWT Department of Transportation. The preferred alignment is shown on **Map 4**.

APPENDIX E:

**Bylaw No. 4344, 4569, 4666 Authorizing
the Disposal of the Twin Pine Hill Lands**

**CITY OF YELLOWKNIFE
BY-LAW NO. 4344**

A by-law of the Council of the Municipal Corporation of the City of Yellowknife authorizing the Municipal Corporation of the City of Yellowknife to dispose of a freehold interest in land for the Municipal Corporation of the City of Yellowknife, in the Northwest Territories.

PURSUANT to Section 54 of the *Cities, Towns and Villages Act*, S.N.W.T., 2003, c.22;

WHEREAS the said parcel of land is not required for municipal purposes by the Municipal Corporation of the City of Yellowknife;

NOW THEREFORE, THE COUNCIL OF THE MUNICIPAL CORPORATION OF THE CITY OF YELLOWKNIFE, in regular session duly assembled, hereby enacts as follows:

APPLICATION

1. That the Municipal Corporation of the City of Yellowknife is hereby authorized to dispose of a freehold interest in the following parcels of land by initially allowing Yellowknife River Resorts Inc. to exercise its "right of first refusal" in accordance with a purchase agreement with the City dated June 30, 2003, or secondly, by issuing a call for development proposals, or thirdly, by any other means described in Land Administration By-law No. 3853 as amended:

Lots 7, 8, 9, 10, Block 80, Plan 72; and

Lot 14, Block 80, Plan XXXX.

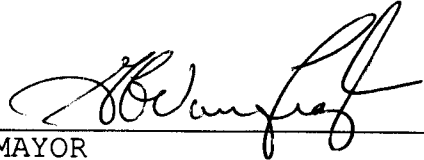
Yellowknife

2. THAT the Mayor and City Administrator of the Municipal Corporation of the City of Yellowknife, or lawful deputy of either of them, are hereby authorized in the name and on the behalf of the Municipal Corporation of the City of Yellowknife, to execute all such forms of application, deeds, indentures, and other documents as may be necessary to give effect to this by-law and to affix thereto the corporate seal of the Municipal Corporation of the City of Yellowknife as the act and deed thereof, subscribing their names in attestation of such execution.

EFFECT

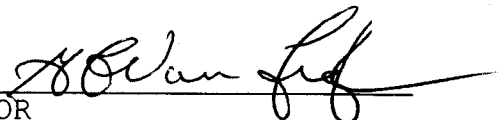
3. That this by-law shall come into effect upon receiving Third Reading and otherwise meets the requirements of Section 75 of the *Cities, Towns and Villages Act*.

READ a First time this 13TH day of DECEMBER, A.D. 2004.


MAYOR


CITY ADMINISTRATOR

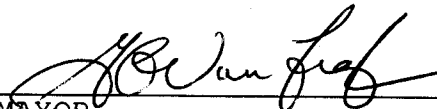
READ a Second time this 13TH day of DECEMBER, A.D. 2004.


MAYOR


CITY ADMINISTRATOR

The unanimous consent of all members voting in attendance having been obtained.

READ a Third time and Finally Passed this 13TH day of DECEMBER, A.D. 2004.


MAYOR

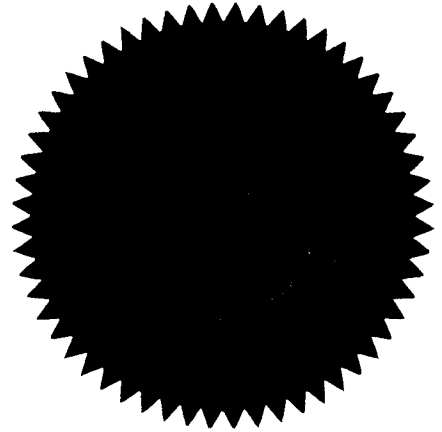

CITY ADMINISTRATOR

I hereby certify that this by-law has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the by-laws of the Municipal Corporation of the City of Yellowknife.



CITY ADMINISTRATOR

Docs #96309-v2

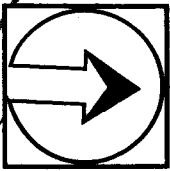


SS4

NP

CS

R5



BLOCK 80

OM

LIFTSTATION

1-9, PARCEL

SCHOOL DRAW AVENUE

PR

S PTN

Disposal By-law for Block 80,
Lots 7-10 & 14 (Twin Pine Hill)

Disposal
By-law No. 4344

0 12.5 25 50 Meters

File: By-law No.4344.mxd S.MacLaurin
Date: December 7, 2004



City of Yellowknife
Planning & Lands Division

**CITY OF YELLOWKNIFE
BY-LAW NO. 4569**

A BY-LAW of the Council of the Municipal Corporation of the City of Yellowknife, authorizing the City of Yellowknife to dispose of, by title or lease to the adjacent property owners, an interest in a parcel of Commissioner's Land lying adjacent to Lots 7 to 10, Block 80, Plan 72 for the Municipal Corporation of the City of Yellowknife, in the Northwest Territories.

PURSUANT to Section 54 of the *Cities, Towns and Villages Act*, S.N.W.T., 2003, c. 22;

AND WHEREAS the said parcel(s) of land are not required for municipal purposes;

NOW, THEREFORE, THE COUNCIL OF THE MUNICIPAL CORPORATION OF THE CITY OF YELLOWKNIFE, in regular session duly assembled, hereby enacts as follows:

APPLICATION

1. THAT the Municipal Corporation of the City of Yellowknife is hereby authorized to dispose of, by fee simple title or leasehold interest to the adjacent property owners, all that parcel of land more particularly described as:

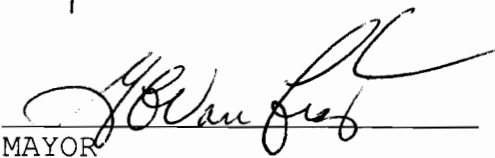
Lot 15
Block 80
Plan 4320
Yellowknife

2. THAT the Mayor and City Administrator of the Municipal Corporation of the City of Yellowknife, or lawful deputy of either of them, are hereby authorized in the name and on the behalf of the Municipal Corporation of the City of Yellowknife, to execute all such forms of application, deeds, indentures, and other documents as may be necessary to give effect to this by-law and to affix thereto the corporate seal of the Municipal Corporation of the City of Yellowknife as the act and deed thereof, subscribing their names in attestation of such execution.

EFFECT


3. THIS by-law shall come into effect upon receiving Third Reading and otherwise meets the requirements of Section 75 of the *Cities, Towns and Villages Act*.

READ a First time this 10 day of May A.D., 2010.


MAYOR

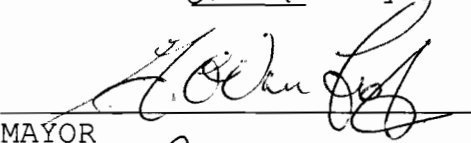

CITY ADMINISTRATOR

READ a Second time this 10 day of May A.D., 2010.


MAYOR


CITY ADMINISTRATOR

READ a Third time and Finally Passed this 24th day of January A.D., 2010!


MAYOR


CITY ADMINISTRATOR



I hereby certify that this by-law has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the by-laws of the Municipal Corporation of the City of Yellowknife.


CITY ADMINISTRATOR

**CITY OF YELLOWKNIFE
BY-LAW NO. 4666**

A BY-LAW of the Council of the Municipal Corporation of the City of Yellowknife authorizing the Municipal Corporation of the City of Yellowknife to dispose of a freehold interest in land for the Municipal Corporation of the City of Yellowknife, in the Northwest Territories.

PURSUANT to Section 54 of the *Cities, Towns and Villages Act*, S.N.W.T., 2003, C-22;

WHEREAS the said parcel of land is not required for municipal purposes by the Municipal Corporation of the City of Yellowknife;

NOW THEREFORE, THE COUNCIL OF THE MUNICIPAL CORPORATION OF THE CITY OF YELLOWKNIFE, in regular session duly assembled, hereby enacts as follows:

APPLICATION

1. THAT the Municipal Corporation of the City of Yellowknife is hereby authorized to dispose of in fee simple title the following parcel of land to 994552 NWT Ltd:



Lot 16, Block 78, NRCan Item No. 201118133.

2. THAT the Mayor and City Administrator of the Municipal Corporation of the City of Yellowknife, or lawful deputy of either of them, are hereby authorized in the name and on the behalf of the Municipal Corporation of the City of Yellowknife, to execute all such forms of application, deeds, indentures, and other documents as may be necessary to give effect to this by-law and to affix thereto the corporate seal of the Municipal Corporation of the City of Yellowknife as the act and deed thereof, subscribing their names in attestation of such execution.



EFFECT

3. THAT this by-law shall come into effect upon receiving Third Reading and otherwise meets the requirements of Section 75 of the *Cities, Towns and Villages Act*.

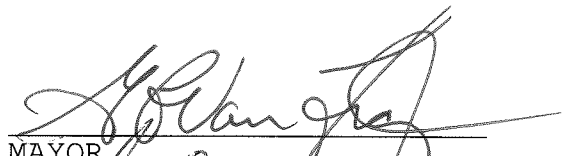

READ a First time this 27 day of FEBRUARY, A.D. 2012.


MAYOR

CITY ADMINISTRATOR

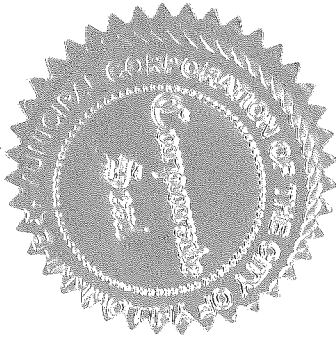
READ a Second time this 7 day of MAY, A.D. 2012.

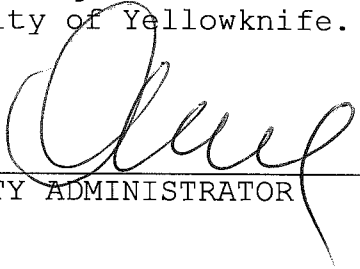

MAYOR

CITY ADMINISTRATOR

READ a Third time and Finally Passed this 7 day of MAY, A.D. 2012.


MAYOR

CITY ADMINISTRATOR

I hereby certify that this by-law has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the by-laws of the Municipal Corporation of the City of Yellowknife.





CITY ADMINISTRATOR

Docs # 296811

APPENDIX F:
Survey of Lot 17 Block 80

PLAN OF SURVEY
 OF
 LOTS 16 AND 17, BLOCK 80
 AND
 FIELD NOTES OF SURVEY
 OF
 LOTS 16 AND A PORTION OF
 LOT 17, BLOCK 80

**YELLOWKNIFE COORDINATED SURVEY AREA
 YELLOWKNIFE, NORTHWEST TERRITORIES**

NOTE: LANDS DEALT WITH BY THIS PLAN SUPERSEDES LOTS 7 TO 10, BLOCK 80, PLAN 40392 C.L.S.R., No. 72 L.T.O., LOT 14, BLOCK 80, PLAN 89663 C.L.S.R., No. 3950 L.T.O., LOT 15, BLOCK 80, PLAN 97891 C.L.S.R., No. 4320 L.T.O., LOT 14, BLOCK 78, PLAN 91098 C.L.S.R., No. 4059 L.T.O. AND LOT 16, BLOCK 78, PLAN 100493 C.L.S.R., No. 4437 L.T.O.

THE COMPILED PORTION OF LOT 17, BLOCK 80 WAS COMPILED FROM THE FOLLOWING FIELD NOTES OF SURVEY:
 PLAN 89663 C.L.S.R., No. 3950 L.T.O. EXECUTED BY ROBERT LAFRENIERE, C.L.S. IN 2004
 PLAN 91098 C.L.S.R., No. 4059 L.T.O. EXECUTED BY BRUCE HEWLKO, C.L.S. IN 2006
 PLAN 97891 C.L.S.R., No. 4320 L.T.O. EXECUTED BY BRUCE HEWLKO, C.L.S. IN 2010
 PLAN 100493 C.L.S.R., No. 4437 L.T.O. EXECUTED BY KYLE HARRINGTON, C.L.S. IN 2012

THE BOUNDARY INFORMATION ON LOT 17, BLOCK 80 HAS BEEN COMPILED FROM FIELD NOTES OF RECORDS AS NOTED AND NO NEW FIELD WORK WAS PERFORMED TO VERIFY THE MONUMENTS, MEASUREMENTS OR POTENTIAL BOUNDARY ENCROACHMENTS, UNLESS OTHERWISE SHOWN.

THIS SURVEY WAS EXECUTED ON AUGUST 9 AND AUGUST 10, 2012
 BY BRUCE HEWLKO, C.L.S.

SCALE 1 : 500

LEGEND

BEARINGS ARE GRID AND ARE REFERRED TO THE CENTRAL MERIDIAN OF U.T.M. ZONE 11 (117° WEST).
 DISTANCES SHOWN ARE EXPRESSED IN METRES AND ARE HORIZONTAL AT GENERAL GROUND LEVEL.
 ALL POSTS PLACED IN THE COURSE OF THIS SURVEY ARE MARKED WITH APPROPRIATE LOT AND BLOCK NUMBERS, THE YEAR 2012, AND 'R' FOR ROAD WHERE APPLICABLE.
 UTM COORDINATES ARE REFERRED TO THE YELLOWKNIFE COORDINATED SURVEY AREA AS SHOWN ON PLAN 97263 C.L.S.R. TO COMPUTE U.T.M. COORDINATES, DISTANCES HAVE BEEN REDUCED TO SEA LEVEL AND PROJECTION PLANE BY APPLYING A COMBINED SCALE FACTOR OF 0.9998018
 RTK GPS OBSERVATIONS WERE USED TO DETERMINE ALL OF THE BOUNDARY DIMENSIONS SHOWN ON THIS PLAN.
 THE SURVEY REPORT FOR THIS PROJECT IS RECORDED UNDER FIELD BOOK NO. **FB 39584** C.L.S.R.

- COORDINATE CONTROL MONUMENT FOUND
- C.L.S. '77 POST PLACED
- C.L.S. '77 POST FOUND
- C.L.S. '77 ROCK POST FOUND
- C.L.S. '77 POST COPIED
- C.L.S. '77 ROCK POST COPIED
- C.L.S. '77 POST FOUND REMOVED
- C.L.S. '69 POST COPIED
- C.L.S. ROCK POST COPIED
- OLD PATTERN IRON POST COPIED
- OLD PATTERN IRON ROCK POST FOUND
- TRAVERSE LINES AND STATION
- LANDS DEALT WITH BY THIS PLAN ARE BOUNDED THUS
- CS STANDS FOR COUNTER SUNK

CERTIFIED CORRECT

B. Hewlko
 BRUCE HEWLKO
 CANADA LANDS SURVEYOR
 DATE: *Sept. 26/11*

APPROVED PURSUANT TO THE LAND TITLES ACT AND THE LAND TITLES PLANS REGULATIONS

PLAN IS APPROVED PURSUANT TO THE LAND TITLES PLANS REGULATIONS

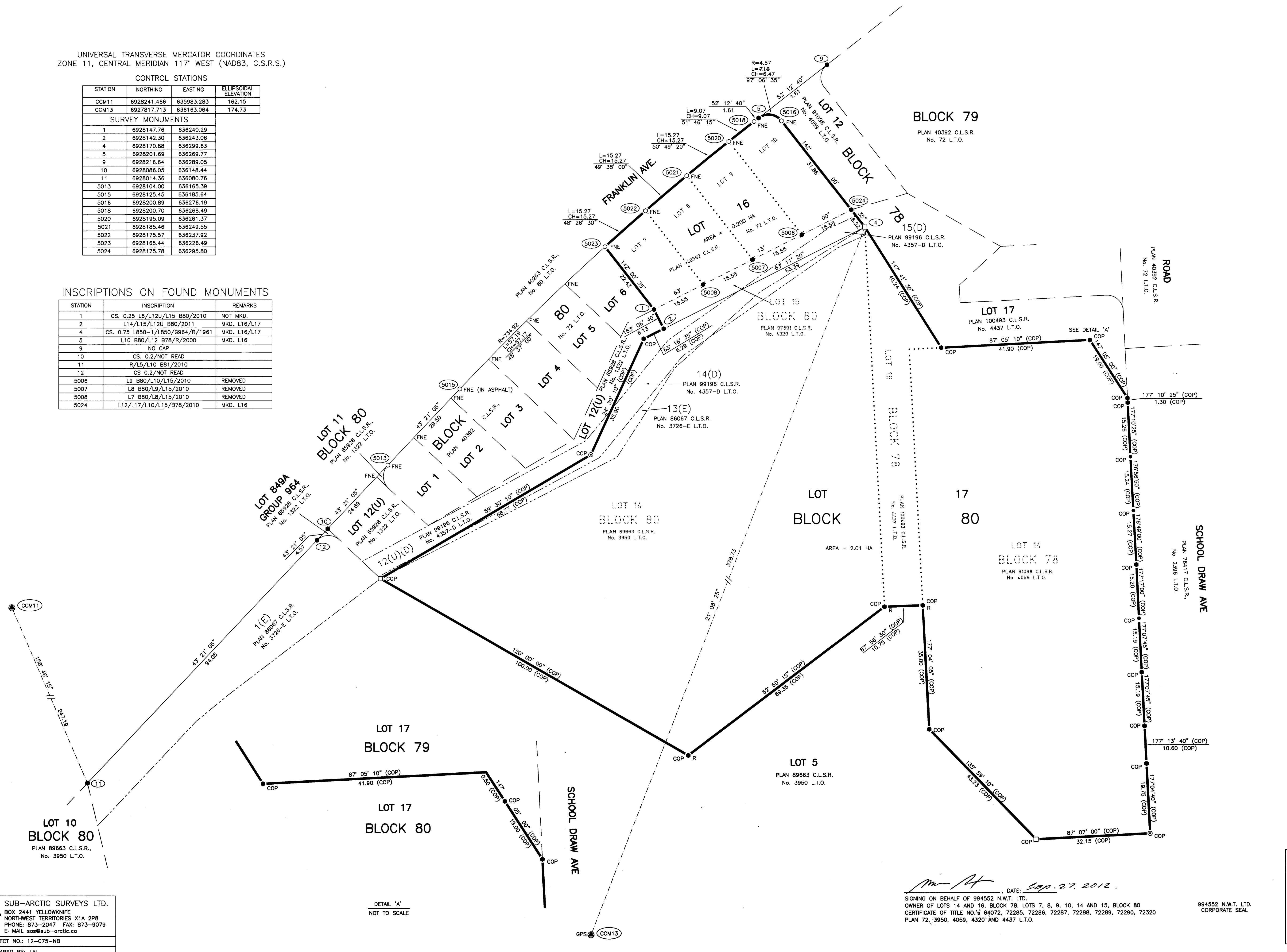
Andrew Brenner
 ANDREW BRENNER, C.L.S.
 HEAD CADASTRAL SERVICES, NT/NU
 SURVEYOR GENERAL BRANCH
 DATE: *Nov 19th 2012*

UNIVERSAL TRANSVERSE MERCATOR COORDINATES
 ZONE 11, CENTRAL MERIDIAN 117° WEST (NAD83, C.S.R.S.)

CONTROL STATIONS			
STATION	NORTHING	EASTING	ELLIPSOIDAL ELEVATION
CCM11	6928241.466	635983.283	192.15
CCM13	6928177.713	636163.064	174.73
SURVEY MONUMENTS			
1	6928147.76	636240.29	
2	6928142.30	636243.06	
4	6928170.88	636299.63	
5	6928201.69	636269.77	
9	6928216.64	636289.05	
10	6928086.05	636148.44	
11	6928014.36	636080.76	
5013	6928104.00	636165.39	
5015	6928125.45	636185.64	
5016	6928200.89	636276.19	
5018	6928200.70	636268.49	
5020	6928195.09	636261.37	
5021	6928185.46	636249.55	
5022	6928175.57	636237.92	
5023	6928165.44	636226.49	
5024	6928175.78	636295.80	

INSCRIPTIONS ON FOUND MONUMENTS

STATION	INSCRIPTION	REMARKS
1	CS. 0.25 L6/L12U/L15 B80/2010	NOT MKD.
2	L14/L15/L12U B80/2011	MKD. L16/L17
4	CS. 0.75 L850-1/L850/G964/R/1961	MKD. L16/L17
5	L10 B80/L12 B78/R/2000	MKD. L16
9	NO CAP	
10	CS. 0.2/NOT READ	
11	R/L5/L10 B81/2010	
12	CS. 0.2/NOT READ	
5006	L9 B80/L10/L15/2010	REMOVED
5007	L8 B80/L9/L15/2010	REMOVED
5008	L7 B80/L8/L15/2010	REMOVED
5024	L12/L17/L10/L15/B78/2010	MKD. L16



CANADA LANDS SURVEYS RECORDS 101322

CANADA LANDS SURVEYS RECORDS 101322

SUB-ARCTIC SURVEYS LTD.
 BOX 2441 YELLOWKNIFE
 NORTHWEST TERRITORIES X1A 2P8
 PHONE: 873-2047 FAX: 873-9079
 E-MAIL: sas@sub-arctic.ca

DETAIL 'A'
 NOT TO SCALE

SIGNING ON BEHALF OF 994552 N.W.T. LTD.
 OWNER OF LOTS 14 AND 16, BLOCK 78, LOTS 7, 8, 9, 10, 14 AND 15, BLOCK 80
 CERTIFICATE OF TITLE NO. 9 84072, 72285, 72286, 72287, 72288, 72289, 72290, 72320
 PLAN 72, 3950, 4059, 4320 AND 4437 L.T.O.

994552 N.W.T. LTD.
 CORPORATE SEAL

PROJECT NO.: 12-075-NB
 PREPARED BY: J.N.

APPENDIX G:

Council Meeting Minutes from May 11,
2020 and Relevant Council Memos



CITY OF YELLOWKNIFE
ADOPTED COUNCIL MINUTES

Monday, May 11, 2020 at 7:00 p.m.

Present: Mayor R. Alty,
Councillor N. Konge,
Councillor S. Morgan,
Councillor J. Morse,
Councillor C. Mufandaedza,
Councillor S. Payne, and
Councillor R. Williams.

City Staff: S. Bassi-Kellett,
E. Bussey,
C. Greencorn,
G. Littlefair,
R. Lok,
K. Penney,
G. White
S. Woodward, and
D. M. Gillard.

1. Councillor Payne read the Opening Meditation.

AWARDS, CEREMONIES AND PRESENTATIONS

2. There were no awards, ceremonies or presentations.

ADOPTION OF MINUTES FROM PREVIOUS MEETING(S)

- #0073-20
3. Councillor Payne moved,
Councillor Mufandaedza seconded,

**That the Minutes of Council for the regular meeting of Monday,
April 27, 2020 be adopted.**

MOTION CARRIED UNANIMOUSLY

DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

4. There were no disclosures of pecuniary interest.



CORRESPONDENCE AND PETITIONS

5. There was no correspondence nor were there any petitions.

STATUTORY PUBLIC HEARINGS

6. There were no Statutory Public Hearings.

DELEGATIONS PERTAINING TO ITEMS ON THE AGENDA

7. There were no delegations pertaining to items on the agenda.

MEMBER STATEMENTS

8. There were no member statements.

INTRODUCTION AND CONSIDERATION OF COMMITTEE REPORTS

Governance and Priorities Committee Report for April 27, 2020

9. There was no business arising from this meeting.

Governance and Priorities Committee Report for May 4, 2020

10. Councillor Payne read a report of a meeting held on Monday, May 4, 2020 at 12:05 p.m. in the City Hall Council Chamber.

- #0074-20 11. Councillor Payne moved,
Councillor Mufandaedza seconded,

That Council approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (former Bartam site - 4024 School Draw Avenue).

Those opposed to the motion stated that they don’t think that the building is a “Similar Use” to buildings in the Old Town and that an apartment building of this size on this site is not permitted within the OM zone under Zoning By-law No. 4404.

Those in favour of the motion stated that the *Community Planning and Development Act* and the Zoning By-law allow for “Similar Use”. Those in favour further noted that both Multi-Family Dwellings and Multi-Attached Dwellings are similar in “purpose and character” in that they are multi-unit residential. Those in favour of approval felt



that the size and scale of the building is appropriate considering the proximity to the downtown core.

- #0075-20 12. Councillor Morse moved,
 Councillor Williams seconded,

That the motion be amended to include the following condition:

That the design, character and appearance of the proposed development must be compatible and complementary to the physical look and feel of Old Town.

Those opposed to the amendment noted the 2011 General Plan supports higher density at Lot 17, Block 80, which is referred as "Twin Pine Hill/Bartam" in the Plan. Those opposed to the amendment further stated that the support for higher density is established as the "Twin Pine Hill/Bartam" site is shown as Development Priority A and identifies it as a suitable location for up to 75 units. Those opposed to the amendment noted that the developer can take a number of steps and efforts to ensure that the building and development design is in keeping with the look and feel of Old Town.

Those in favour of the amendment noted that they would like to ensure that the building is designed in such a way that compliments the neighbourhood.

**MOTION TO AMEND DEFEATED
(Councillors Morgan and Morse in favour)**

**MAIN MOTION CARRIED
(Councillor Morgan and Morse opposed)**

NEW BUSINESS

13. There was no New Business for the Agenda.



ENACTMENT OF BY-LAWS

14. There were no by-laws for the agenda.

DEFERRED BUSINESS AND TABLED ITEMS

15. There was no deferred business and there were no tabled items.

OLD BUSINESS

16. There was no old business.

NOTICES OF MOTION

17. There were no notices of motion.

DELEGATIONS PERTAINING TO ITEMS NOT ON THE AGENDA

18. There were no delegations pertaining to Items Not on the Agenda.

ADMINISTRATIVE ENQUIRIES

19. In response to a question from Councillor Konge, Administration provided an update regarding the Aquatic Centre. Administration advised that it continues to work with the Bridging Consultant and Project Manager with respect to overall design and cumulative cost and noted that the City has requested an extension with respect to the Federal funding, of which the City is currently committed to spend by March 2023.
20. In response to a question from Councillor Konge, Administration advised that the City no longer uses As-and-When Contracts and uses Standing Offer Agreements instead. This allows the City to ensure the work is completed in a timely manner and spreads the work amongst local contractors. In response to further questions, Administration advised that local businesses may register on the City's Bids and Tenders webpage for various categories of service and will be notified when bidding opportunities arise.
21. In response to a question from Councillor Konge, Administration advised that it distributes landscaping work, related to water and sewer construction, amongst interested local contractors. Local contractors interested in this work are invited to contact the City.



ADJOURNMENT

#0076-20 22. Councillor Williams moved,
Councillor Mufandaedza seconded,

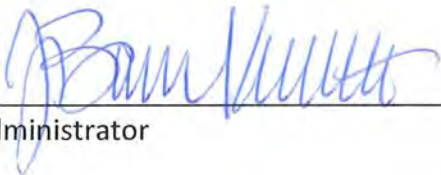
That the Meeting be adjourned at 8:29 p.m.

MOTION CARRIED UNANIMOUSLY





Mayor



City Administrator



CITY OF YELLOWKNIFE

MEMORANDUM TO COMMITTEE

COMMITTEE: Governance and Priorities

DATE: May 4, 2020

DEPARTMENT: Planning and Development

ISSUE: Whether to approve a Conditionally Permitted Use (Similar Use) at Lot 17, Block 80 (4024 School Draw Avenue).

RECOMMENDATION:

That Council approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (4024 School Draw Avenue).

BACKGROUND:

There are two types of multi-residential dwelling classifications in the Zoning By-law. A Multi-Attached Dwelling is a residential building containing three or more dwelling units each having a separate access to the ground level. A Multi-Family Dwelling is a residential building containing three or more dwelling units with shared entrance facilities. The townhouses on McDonald Drive near the Latham Island Causeway are an example of a Multi-Attached Dwelling and the groups of apartments east of 52nd Avenue are examples of a Multi-Family Dwellings. In the Old Town Mixed Use zone, Multi-Attached Dwellings are listed as a permitted use, but Multi-Family is not.

The City has received a Development Permit application for establishment of a 65-Unit Multi-Family Dwelling at 4024 School Draw Avenue, the former location of the Bartam Trailer Park. Figure #1 on the following page provides a point of reference.

COUNCIL POLICY / RESOLUTION OR GOAL:

Goal #4: Driving Strategic land development and growth opportunities
Objective 4.2: Promote development across the City

APPLICABLE LEGISLATION, BY-LAWS, STUDIES, PLANS:

1. *Community Planning and Development Act, S.N.W.T. 2011;*
2. General Plan By-law (2011) No. 4656, as amended;
3. Community Plan By-law (2020) No. 5007 (pending final approval); and
4. Zoning By-law No. 4404, as amended.

Figure #1: Subject Property – Lot 17 Block 80



CONSIDERATIONS:

Legislative

The City of Yellowknife is granted the authority to control land uses by way of a Zoning By-law under Section 12 of the *Community Planning and Development Act*.

2011 General Plan and the 2020 Draft Community Plan

The subject land is designated Mixed-Use in the 2011 General Plan. These areas are identified as having a high potential to maintain or achieve compact and mixed use developments, particularly through redevelopment and intensification. The proposed Multi-Family Dwelling, in close proximity to the downtown core, is considered an appropriate use for this land designation.

The 2020 Community Plan, pending final Ministerial approval and by-law adoption, provides a clear distinction between Old Town and the Central Residential neighbourhood that circles the Downtown Core. The Central Residential neighbourhood is “anticipated to be a transition area between the high-density city core and other area designations like Old Town, the Recreation Hub, and Old Airport Road Commercial”. The Bartam site is located in the Central Residential designation, not the Old Town designation. The 2020 Community Plan provides the following direction: “the Central Residential area is mostly low density residential, but due to its proximity to walkable amenities and grid pattern of streets, it is suitable to transition to higher density residential and multi-use development through infill. Infill opportunities include development of vacant lots or redevelopment and densification of existing developed lots”.

Zoning By-law No. 4404, as amended

Section 2.4(1)(a) of Zoning By-law No. 4404 states that Council shall:

Make decisions and state any terms and conditions for development permit applications for those uses listed as Conditionally Permitted Uses.

Zones within the Zoning By-law list the land uses that are permitted on an applicable parcel of land. In addition, zones may also list a series of Conditionally Permitted Uses that may be permitted by Council after due consideration is given to the impact of the use upon neighbouring land and other lands in the City.

The subject property is zoned Old Town Mixed Use (OM). The purpose of the zone is to “provide for a mix of commercial and residential uses”. The subject property is located along School Draw Avenue, towards the entrance of Old Town. Old Town is an area of mixed use and development, with adjacent land uses that include commercial, residential, light industrial, and parks and natural space.

The proposed Multi-Family Dwelling may be considered as a “Similar Use” as it is consistent with the character and purpose of other uses listed in the OM zone and the parcel of land is adjacent to the Downtown zone. The proposed development is residential in nature and it is not dissimilar to other residential uses permitted in the zone such as Multi-Attached Dwellings. Proximity to the Downtown zone is key; Multi-Family development is not considered appropriate in the core of the OM zone where lower intensity land uses and smaller scale buildings predominate.

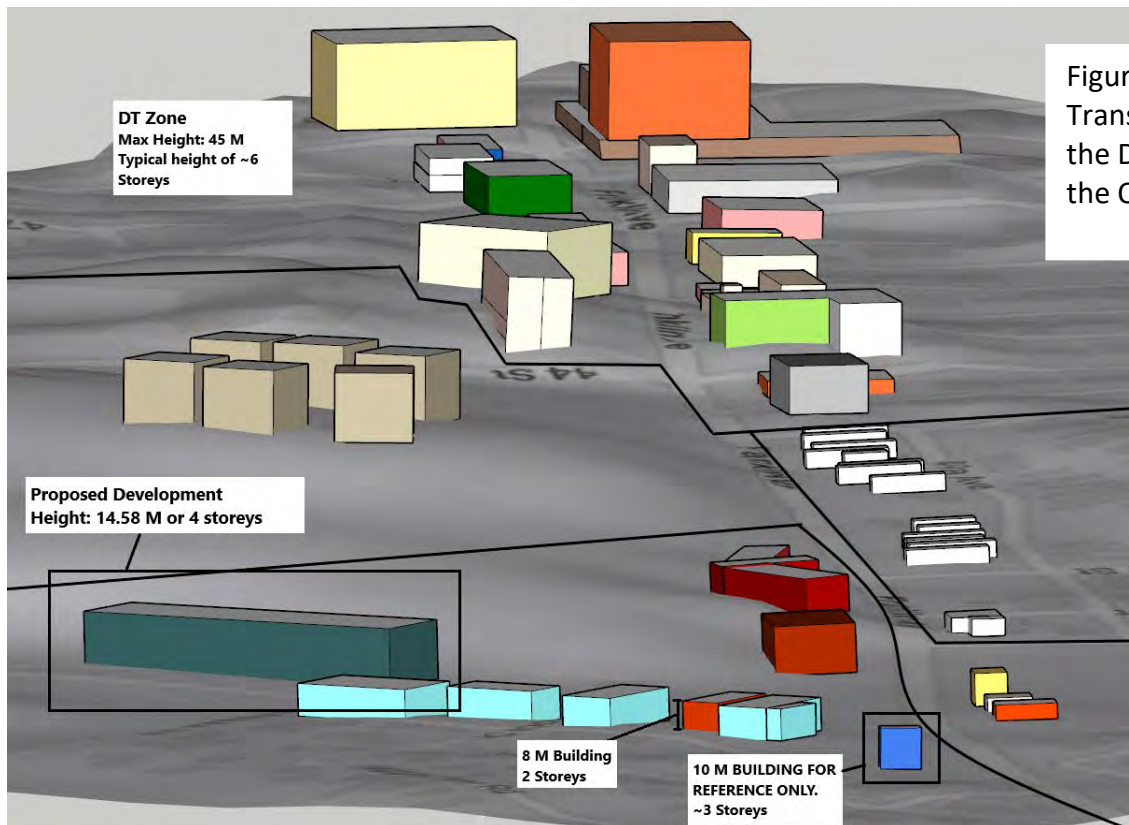


Figure #2: Height Transition between the DT Zone and the OM Zone.

Variance

The applicant has asked to increase the height of the structure from 10.0 m to 14.58 m (45.8% Variance) to accommodate a four-storey structure. The OM Zone height restrictions reflect that of Multi-Attached Dwellings or light industrial structures. The subject site has physical limitations related to terrain due to the exposed bedrock of Twin Pine Hill. The proposed development seeks to minimize terrain disturbance by locating the structure in the former developed area adjacent to School Draw.

Because the subject property is located near the entrance of Old Town, the proposed development of four storeys would provide a context appropriate transition between the high density nature of the Downtown (DT) Zone and the medium to low density nature of the OM Zone. The proposed variance to the height is not expected to unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring properties, the sidewalk, or School Draw Avenue because it is located adjacent to the toe of the bedrock slope.

Design Standards for Twin Pine Hill

The Twin Pine Hill Area is a prominent area of the municipality. The area includes large amounts of granite rock, panoramic viewing points of Old Town and Great Slave Lake, and recently constructed recreational trails. The purpose of the design standards is to ensure development has a low impact upon the natural landscape of Twin Pine Hill. The proposed development aligns with the Design Standards for Twin Pine Hill by minimizing terrain disturbance of the natural bedrock and limiting tree removal, and by incorporating linkages to the existing trail network.

Municipal Asset Management

The proposed development is an infill project on a vacant parcel of land located on a collector road. Establishment of this development allows the City to capitalize on existing assets, including sidewalks, curbs and streetlights; piped infrastructure, the municipal fire service, Route C of the municipal bus service, and integration into the existing Twin Pine Hill trail system. The City can avoid the associated costs of greenfield development and newly introduced infrastructure by capitalizing on infill development and existing services.

Neighbourhood Notification

Section 3.7 (2) of the Zoning By-law specifies that all property owners within 30 metres of land under consideration for a Conditionally Permitted Use must be provided notice. Due to the orientation of the property and the distance to the proximal residential neighbourhood, 100 m was chosen as the notification boundary as it more accurately captured the intent of the neighbourhood notification. A letter prepared by staff advising of the proposed development was mailed to all owners and lessees of the land within 100 metres of the subject property on Tuesday, April 7th, 2020.

Due to the COVID-19 Public Health Emergency and the Easter weekend, significant mail delays occurred and residents received their notices with little time to consider the proposed development. To remedy this, administration extended the deadline for public comment and hand delivered new notices to all owners and lessees of the land within 100 metres of the subject property on April 17th, 2020. The deadline for public comment was extended to May 1st, 2020 at 9 am. Property owners were supplied with the detailed site plan and building elevations for the proposed development. 37 total written comments were submitted during the engagement period from 22 individuals and families. The chart below provides a summary of the concerns and comments that were collected during the public

engagement process. Planning staff’s response is also provided. A detailed listing of all concerns expressed accompanies this report.

Summary of Public Comments and Concerns	Staff Response
Concern that the development does not align with the 2011 General Plan or the Zoning By-Law	Consideration was given to the 2011 General Plan and the Draft Community Plan when analyzing this development proposal. In the 2011 General Plan, the lot is designated as Mixed-Use and part of the Old Town Character area. This designation applies to areas that have been identified as having a high potential to maintain or achieve compact and mixed use developments. The General Plan states “compatible development means development that, although it is not necessarily the same as, or similar to, existing buildings in the vicinity, nonetheless enhances an established community and coexists with existing development without causing undue adverse impact on surrounding properties”. In the Draft Community Plan, the lot is identified as Central Residential, which designates the area as suitable for transition to higher density residential and multi-use development through infill.
Concerns regarding the blasting of bedrock	The developer has indicated that there will be minimal terrain disturbance of the natural bedrock and no blasting is required for the grading work needed.
Concerns regarding the definition/suitability of “Similar Use”	In making a decision on an application for a Conditionally Permitted Use, Council shall give due consideration to: the impact of properties in the vicinity of the proposed development; the design, character and appearance of the proposed development; and the treatment provided to site considerations. A “Similar Use” is a development deemed by Council to be similar in nature to a permitted or conditionally permitted use.
Concerns regarding parking and traffic	Zoning By-law parking requirements are one space per dwelling unit. 65 car parking stalls are required for this development and 79 are proposed to be installed. A Traffic Impact Study is a requirement of the development permit process and any adverse impacts to traffic flow will be mitigated with implementation of the study’s recommendations.
Concerns regarding the design of the building	The development is required to meet all design standards outlined in the Zoning By-law Section 8.2; Design Standards for Twin Pine Hill, and the direction provided in the Old Town Mixed zone. The size and scale of the building is context appropriate considering the proximity to the downtown core and the Twin Pine Hill rock face, and the proposed building design demonstrates a varied roof line, extensive windows and balconies on the elevations, hard-board siding, and a varied colour palette.

Site Plan and Building Elevations

The proposed building meets site regulations such as setbacks, density figures, parking and site coverage. The finalized site plan and development agreement will be approved by the Development Officer as part of the final steps of the Development Permit process.

ALTERNATIVES TO RECOMMENDATION:

That Council not approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (4024 School Draw Avenue).

RATIONALE:

The proposed Multi-Family Dwelling may be considered as a “Similar Use” as it is consistent with the character and purpose of other uses listed in the Old Town Mixed Use zone and the parcel of land is adjacent to the Downtown zone. The development aligns with municipal land-use policy for infill growth. The proposed development located at the base of Twin Pine Hill will provide a context appropriate transition between the high density nature of the Downtown zone and the medium to low density nature of the Old Town Mixed Use zone.

ATTACHMENTS:

1. Supporting development permit site plan and building elevations for Lot 17, Block 80 (DM #605804);
2. Neighbourhood notification letter sent April 7th, 2020 (DM #602964 V2);
3. Neighbourhood notification letter sent April 17th, 2020 (DM #605803);
4. Comments collected from public engagement April 17,2020 (DM #605802); and
5. Neighbourhood notification buffer map (DM #603930).

Prepared: April 1, 2020; LM
Revised: April 3, 2020; RL
Revised: April 30, 2020; LM
Revised: May 1, 2020; LM

APPENDIX H:
Relevant Sections of the 2020
Community Plan

4.1.2 Central Residential

Total Area: 215.5 ha

The central residential area, as identified on the *Downtown - Central Residential Land Use Designation Map (Map 4)*, surrounds the Core and primarily consists of compact low-rise residential development. The area is intermixed with some high-density apartments and buildings that have seen adaptive re-use for small-scale offices and/or retail spaces. It will be a transition area between the high-density city core and other area designations like Old Town, the Recreation Hub, and Old Airport Road Commercial. The area is a geographically convenient place to live, as services are easy to access by walking, biking, driving and public transit.

The area is mostly low density residential but due to its proximity to walkable amenities and grid pattern of streets, it is suitable for transition to higher density residential and multi-use development through infill. Infill opportunities include development of vacant lots or redevelopment and densification of existing developed lots. Back laneways exist from 46th Street to 56th Street that allow road access to the back of the lots that could accommodate smaller alternative forms of infill such as secondary suites, mixed-use amenities or urban agriculture activities. However, when making connections or developing new uses, connectivity and alternative forms of transportation, including walking and biking trails must be accommodated.

Several natural areas in the Central Residential designation, such as the Toboggan Hill, Sir John Rock, and Tin Can Hill are valued open spaces and contribute to the quality of life and enjoyment for residents. These include the Toboggan Hill, Sir John Rock, parts of Tin Can Hill and Tin Can Hill Shoreline. Natural open spaces, that are demonstrated as valued because of on-going use and enjoyment will continue to be preserved

Tin Can Hill is a natural area located in the Central Residential designation. A portion of Tin Can Hill is used for a water treatment plant as identified on the *Public Amenities Map*. However, it is also a popular spot for passive recreation activities. Although not a formal greenspace, Tin Can Hill is a valuable and well used recreation destination. Future development of the area, that is compatible with the central residential designation, will respect this use of the space and large portions of Tin Can Hill will be retained to support the on-going recreational use of the area.

Planning and Development Objectives	Policies
1. To improve walking and cycling connections for all ages and abilities within the area and to the City core and other adjacent land use designated areas.	1-a. Improvements will be made to intersection safety, sidewalks, cycling paths, and trail networks.
2. To enhance open spaces to support community events, traditional activities, and passive recreation.	2-a. Existing open spaces or natural areas such as the Toboggan Hill, Sir John Rock and parts of Tin Can Hill and the Tin Can Hill Shoreline will be preserved. 2-b. Natural areas that are difficult to development because of steep slopes, environmental setbacks will remain as open spaces.

Planning and Development Objectives	Policies
	2-c. Investment in open spaces will be made as the area continues to densify.
3. To intensify land use through higher density development, starting in the areas that are adjacent to the city core and moving outwards. High density development adjacent to the City core stepping down to medium density.	3-a. Zoning will be revised to allow for higher density re-development close to the City Core stepping down to medium density zoning further from the City Core.
4. To encourage higher density residential development.	4-a. Off-street parking minimums will be reduced. 4-b. Walking and cycling connections will be improved to support active modes of transportation.
5. To encourage a variety of housing options.	5-a. Alternative dwelling types that support higher density may occur in the area, but development must have enough space to accommodate living area, parking setbacks and outdoor amenity space.
6. To increase mixed land uses that are compact and compliment land uses in the City Core.	6-a. Accessory uses will be permitted such as home based businesses. Other permitted uses will include day cares and convenience stores that promote complete communities and reduce the need to use private motor vehicles to access services.
7. To promote urban agriculture activities that do not conflict with residential uses such as raised garden beds, small chicken coops, and domestic beehives.	7-a. Small-scale urban agricultural activities will be permitted but must be accessory to residential uses and will not negatively impact the residential character of the neighbourhood.
8. To maintain Tin Can Hill, or significant portions, for passive recreation activities.	8-a. Any future development of Tin Can Hill will maintain space for passive recreation opportunities and maintain appropriate natural buffers between trails and development.
9. To consider limited development on portions of Tin Can Hill.	9-a. Development of Tin Can Hill must be designed and developed to minimize the disturbance to the natural environment, significant heritage features, and recreational areas of Tin Can Hill.
10. To improve walking and cycling connections to Tin Can Hill from other parts of the neighbourhood to make it more accessible to a greater variety of transportation modes.	10-a. Gaps in walking and cycling paths to Tin Can Hill will be identified and improved.

5.4 Subdivision and Land Development Sequencing

Pursuant to the *Community Planning and Development Act* 4.(1)(e), this section provides a policy framework for the sequence in which specified areas of land may be developed or redeveloped to accommodate future land use needs in the short-term, medium-term, and long-term.

As part of the *Community Plan* update, land analysis and modeling was performed to determine how much land would be required for different uses for the next 20 years (see Section 2.3). The City considered existing inventory and available land development opportunities within the built area of the City as well as greenfield areas. Based on these considerations, a set of objectives and policies were developed to guide decisions about subdivision and land development sequencing to meet the future land development needs of the City in an environmentally, economically, and socially sustainable way, as identified on the *Land Development Sequence Map (Map 24)*.

Area development plans are a tool that the City can use to create more detailed land use plans for a specific area of land. As per section 8 of the *Community Planning and Development Act* the purpose of an area development is to provide a framework for the subdivision or development of land within a municipality. Several area development plans are identified in the land development sequencing. The City may consider an area development plan any time an undeveloped parcel of land is being proposed for subdivision or five or more lots are being subdivided. Objectives and policies for subdivision and land development sequencing are outlined in the table below:

Planning and Development Objectives	Policies
<p>1. To utilize existing infrastructure for land development.</p>	<p>1-a. Vacant lots, both City owned and private, within the built area of the City will be prioritized before greenfield development.</p> <p>1-b. The City will consult with owners of private vacant land to incentivize development that aligns with the City’s general development goals (Section 3.1.2).</p>
<p>2. To pursue greenfield redevelopment with consideration to market demand and economic, environmental, and social cost benefit analysis.</p>	<p>2-a. New greenfield development will be prioritized after development consideration is given to policy 1-a and 1-b.</p> <p>2-b. Greenfield development will occur adjacent to developed areas in a phased approach in order to utilize existing infrastructure for land development.</p> <p>2-c. A cost benefit analysis on the economic, environmental, and social aspects of new land subdivision will occur prior to greenfield development.</p>

3 VISION AND GENERAL DEVELOPMENT GOALS AND STRATEGY

3.1 Vision and Goals

3.1.1 Vision

The City's vision is:

“Yellowknife is a welcoming, inclusive, and prosperous community with a strong sense of pride in our unique history, culture, and natural beauty.” (2019-2022 City of Yellowknife Strategic Plan)

The City's vision informs the goals for land use planning and development. The goals support and give additional meaning and effect to the City's broader economic, environmental, and social objectives.

The vision for the Community Plan is to manage land use in the City in an economically, environmentally and socially sustainable manner that is inclusive and equitable for residents while protecting the natural environment.

3.1.2 General Development Goals

- Develop land in a fiscally responsible and sustainable manner;
- Prioritize utilization of existing capacity of municipal infrastructure for land use development before adding new capacity;
- Reduce land use conflicts by providing clear policies that limit and mitigate incompatible uses;
- Recognize and respect the inherent right of the Indigenous peoples in this region to the land and continue to work with the YKDFN through a mutually respectful and beneficial relationship to honour the interim land withdrawal of Commissioner's land in the City of Yellowknife;
- Improve resiliency of land development with respect to climate change through a range of mitigation and adaptation measures and standards;
- Improve energy efficiency of land development through intensification of existing developed areas and encouraging mixing of uses;
- Increase housing affordability through increased land use flexibility for residential development;
- Encourage and facilitate more land use flexibility in core areas of City to support revitalization plans and initiatives; and
- Incentivize adaptive re-use of land that is no longer viable for its original use.

APPENDIX I:
Technical Review Document

Residential Zones (R1 – R7)

Development Permit Technical Review Report

Planning and Development Department, City of Yellowknife

Permit # PL-2019-0168



Required Sign-Offs for all Development Permits:

Title	Technical Review Criteria	Date	Signature
Development Officer	All development permits requiring a review of site regulations (*not Checklists*)	July 16, 2020	<i>LM Macphail</i>
Peer Review (Planner)	All residential uses, discretions, and variances	July 13, 2020	<i>ALB</i>
Manager, Planning & Lands	All residential uses, discretions, and variances	July 20, 2020	<i>J.M.S.</i>
Director, Planning & Development	Multi-unit (> 4 units) dwellings, discretions, variances, and conditionally permitted uses	July 21, 2020	*SIGNED OFF IN CITYVIEW*
Director or Manager, Public Works	Grading, site servicing, traffic, vehicular access, and new driveways	July 20, 2020	*SIGNED OFF IN CITYVIEW*

Public Works and Engineering	Wendy Alexander	Routine	02/03/2020	Complete	07/20/2020
Departmental Reviews	Greg Littlefair	Routine	02/03/2020	Complete	07/21/2020

Development Permit Application Recommendation:

Decision	Further explanation including reasons and conditions to be met
Refuse	
Approve with conditions	<ol style="list-style-type: none"> 1. The maximum height has been increased from 10.0 m to 14.58 m (45.8% variance) 2. Council Motion #0074-20 approved a Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a "Similar Use" to that of a Multi-Attached Dwelling 4. Landscaping shall be completed by September 30, 2023 and maintained for the life of the development, as indicated in the stamped approved plans and Development Agreement 5. Natural trees and shrubs shall be retained outside of a 2 metre perimeter around the footprint of any building, structure or parking area 6. Plants used for landscaping shall be of capable healthy growth in Yellowknife, grown from northern stock, with the certification that the plants are grown north of 54 degrees latitude. 7. On-site and Off-site Improvements shall be completed as indicated in the stamped approved plans and Development Agreement

Residential Zones (R1 – R7)**Development Permit Technical Review Report**

Planning and Development Department, City of Yellowknife



Permit # PL-2019-0168

	<p>8. A Traffic Impact and Pedestrian Circulation Study is required to be completed.</p> <p>9. A surveyor's Real Property Report shall be submitted to the City prior to occupancy. The Real Property Report must indicate i) all permanent features on the site and ii) finished grades at all corners of the lot and buildings and periodic grades every 20m;</p> <p>10. The property owner is responsible for freeze protection of water lines during construction</p> <p>11. Lighting specifications in terms of the intensity of light are to be the minimum required to provide for safety and security. Street and parking area lighting shall be the minimum height and directed with as narrow a downward band as possible.</p> <p>12. The owner shall delineate all parking spaces on the property</p> <p>13. The owner shall delineate and identify with visual indicators a minimum of four (4) accessible parking spaces on the property</p> <p>14. A Water Connect Permit will be required for the water and sewer services to the building. Permit application must include Plan and Profile drawings for the servicing that are signed and stamped by an Engineer registered with NAPEG. For information on the permit contact construction@yellowknife.ca</p> <p>15. The Development shall comply with all stamped approved plans and with the executed Development Agreement</p>
Is monitoring required?	

Applicant Information:

Permit Number	PL-2019-0168				
Application Date					
Legal Description	Lot:	17	Block:	80	Plan:
Zoning	OM				
Civic Address	4024 School Draw Avenue				
Applicant Name	Nova Development Group				
Property Owner Name	Nova Development Group				
Contact Telephone(s)	Home:	780-702-6682		Work or Cell:	

Residential Zones (R1 – R7)

Development Permit Technical Review Report

Planning and Development Department, City of Yellowknife



Permit # PL-2019-0168

Email and/or Fax	
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Development Permit Application Technical Review

(Regulated by Zoning By-law No. 4404)

1) Application Compliance:

Application Requirements	Submitted? (Please check ✓)		
	Yes	No	Waived or N/A
Use of prescribed form	✓		
Fee Paid	✓		
Three copies of all required information			✓
Proof of plan circulation (for conditionally permitted uses)	✓		
Site Planning			
All dimensions in metric	✓		
Location and dimensions of all existing structures or use	✓		
Location and dimensions of proposed structure or use	✓		
Setbacks (front, side, rear)	✓		
Lot lines	✓		
Street Names	✓		
Landscaping	✓		
Existing and proposed driveways	✓		
Drainage showing gradient	✓		
Location of outdoor fuel storage facilities	✓		
Location of any easements affecting the site			✓
Form, mass, and character of development	ASSESSED	AT END	OF FORM
Building façade and materials	ASSESSED	AT END	OF FORM
Floor plan (except detached dwellings)	✓		
Elevation drawings and exterior dimensions	✓		
Grading (existing, proposed, spot elevations)	✓		
Confirmation of Services			
Services can be provided to proposed development	✓		
Proposed development does not infringe on	✓		

Residential Zones (R1 – R7)

Development Permit Technical Review Report

Planning and Development Department, City of Yellowknife



Permit # PL-2019-0168

easements			
Satisfactory arrangement for supply of municipal services	✓		
Satisfactory arrangement for street access	✓		

2) Zoning Review

Using the requirements for the zone of the proposed development, describe the existing and proposed development. Include any additional information as required.

Existing Development	Temporary accessory structures
Proposed Development	Similar Use; Multi-Family Dwelling
Permitted/Conditionally Permitted/Not Permitted?	Conditionally Permitted: Council Motion #0074-20: That Council approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17 Block 80 (former Bartam site- 4024 School Draw Avenue).
Surrounding Neighbourhood	The subject property is located along School Draw Avenue, towards the entrance to Old Town. Old Town is an area of mixed use and development, with adjacent land uses that include commercial, residential, light industrial, and parks and natural space.
Proposed addresses comply with the Municipal Address By-law? (check with the Geomatics Officer)	✓
Additional Information	<p><u>2011 General Plan Alignment</u> <i>Section 2.3.4- Residential Land Development & Development Priority</i></p> <ul style="list-style-type: none"> • Old Town is identified as an “Intensification target area”. • The 2011 General Plan supports higher density at Lot 17 Block 80, which is referred to as “Twin Pine Hill/Bartam” in the Plan. The site is shown as Development Priority A and identifies it as a suitable location for up to 75 units. (Page 16 of the Plan) • The developers are proposing 65 units. <p><i>Section 4.2 Character Areas & Section 4.2.1 Old Town</i></p> <ul style="list-style-type: none"> • The design of the proposed development should

Residential Zones (R1 – R7)

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	<p>reflect the nature of the Old Town character area while balancing the call for higher density. This section has been expanded on further below.</p> <p><i>Section 5.3 Transit Oriented Development Nodes</i></p> <ul style="list-style-type: none"> • The subject property falls within 120 m of a transit stop, which means that it is a TOD Node. • Properties within TOD nodes are encouraged to have high to medium density. Although TOD nodes should have the majority of the property falling under 120 m of a TOD node, when combining this with the stipulations in Section 2.3.4; it is reasonable to identify the site as suitable for higher density. <p><u>ZBL Section 7.3 Alignment</u></p> <p>(1) Essential Components of Development- Access for emergency vehicles provided, enclosed garbage storage is provided, pedestrian access to and from the public sidewalk is present, flood lighting parking light standards to meet Twin Pine Hill Design Standards requirements.</p> <p>(2) An exercise room or meeting space and a lounge is provided on the first floor adjacent to the lobby. Outdoor balconies are provided for each suite. As well, the development is adjacent to the Twin Pine Hill trail system and Rotary Park.</p> <p>(3) N/A</p>
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For all Conditionally Permitted Uses, proof of plan circulation to affected neighbours must be included with the Development Permit Application.

3) Site Regulations:

Regulations	Required	Proposed	% variance from required
Lot width (Approximated due to irregularly shaped lot)	15.0 m	~123 m	
Lot depth (Approximated due to irregularly shaped lot)	30.0 m	~151 m	
Site area	n/d	2.01 Ha	
Site coverage of principle/accessory building	40%	23.42%	
Floor area	n/d	1857.4 sq. m. of	

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		floor coverage	
Building height	10.0 m	14.58 m	45.8%
Front yard setback	6.0 m	22.65 m	
Side yard setback	2.0 m	8.53 m; 20.72 m	
Rear yard setback	6.0 m	15.41 m	
Off-street parking	75	76	
Bicycle Parking	11	12	

4) Landscaping:

Each zone may require different amounts of landscaping. Use the chart below to explain.

Formula for Calculation	Result
Zone landscaping requirement	100% of front yard (Section 10.8 applies) Landscape area: 2712 sq. m.
Residual area* = Total site area – Developed site area	N/A
Required trees = Residual area / 25 m ²	1 tree/25 sq. m.= 108 trees 2 shrubs/25 sq. m.= 217 shrubs
Additional calculations (fill in below):	Coniferous trees req. = 36 Deciduous trees req. = 72 Coniferous shrubs req. = 72 Deciduous trees req.= 145

*Residual area in this case refers to the residual area within the required landscaped area ONLY, typically the Front yard area.

Landscaping	Existing	Proposed
Landscaped area (m ²)	n/a	2712
Number of trees	Please note design standards requirement (Section 8.2 k.): <i>“Natural trees and shrubs shall be retained outside of a 2 metre perimeter around the footprint of any building, structure or parking area.”</i>	115 Trees: 39 Coniferous, 76 Deciduous.
Shrubbery	n/a	235 Shrubs: 78 Coniferous, 147 Deciduous.
Grassed, gravelled, etc. area (m ²)		~1300 sq. m.

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General Landscaping Requirements	Yes	No	N/A
Development Officer is satisfied that the quality and extent of landscaping will be maintained on the site for the life of the development	✓		
Adequate means for maintaining the landscaping is provided	✓		
Confirmation that plant material is capable of healthy growth in Yellowknife	✓		
Tree and Shrubbery Planting Requirements	Yes	No	N/A
Deciduous trees are at least 2.0m in height	✓		
Coniferous trees comprise a minimum proportion of 1/3 of all trees planted	✓		
Coniferous trees are a height of 1m	✓		
Deciduous shrubs are at least 0.6m in height or spread	✓		
Coniferous shrubs are at least 0.4m in height or spread	✓		
Coniferous shrubs comprise a minimum proportion of 1/3 of all shrubs planted	✓		

5) Vehicular Access and On-Site Traffic:

Requirements	Yes	No	N/A
Grade of parking area or driveway is not greater than 8%	✓		
At street intersections, driveways are set back from lot boundaries to ensure safety and efficiency of existing or planned traffic volumes	✓		
Driveways are separated by necessary distance to ensure safety and efficiency of existing or planned traffic volumes	✓		
Queuing of vehicles does not impact public roadways and will be designed to enhance on-site vehicular circulation and parking.			✓
Driveways and on-site parking have positive surface drainage to the roadway	✓		

6) Variance: Height $10-14.58/10= 45.8\%$

Variance	Yes	No	Explanation
Greater than 10%?	✓		

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Greater than 25%?	✓		This variance is requested to add an extra floor to the height of the structure (4 storeys instead of 3 storeys). As the site is identified as “Development Priority A” in the 2011 General Plan, which calls for high density on the site, and the lot has physical limitations relating to terrain and bedrock formations, the developer has requested this added floor so as to utilize the flat part of the lot as much as is feasible.
Notification (Y/N)	Date	Distance (m)	Explanation
Yes		100m	The notification boundary was expanded from 30 m to 100 m. As the lot is large, oddly shaped, and surrounded by natural space on most sides, the 30 m boundary was insufficient in notifying the adjacent neighbours.
Type of Variance	Yes	No	Explanation
(a)(i) Amenities of Neighbourhood		✓	The proposed variance is not expected to unduly interfere with the amenities of the neighbourhood. The variance will not impact the Twin Pine Hill Trails, sidewalks, roads, or adjacent Rotary Park.
(a)(ii) Use or Value of Neighbours		✓	<p>The proposed variance is not expected to unduly interfere with or affect the use, enjoyment or value of neighbouring parcels of land. As the variance is regarding height a sun shadow study was completed by the developer. As the bulk of the building is well setback from the property lines and abuts the large bedrock formation that exists on the western portion of the lot, the majority of the shadow created will be overshadowed by the hill. In the event this does not occur, the majority of the shadow created by the building will be borne on the subject property and School Draw Avenue.</p> <p>As well, the developer has also proposed a trail connection to the Twin Pine Hill Trail system, as currently users of the trail use the property to access them.</p>

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(b) Irregular Lot Lines	✓		The subject site has irregular lot lines. A majority of the lot extends irregularly westward into Twin Pine Hill.
(c) Physical Limitations	✓		The subject site has physical limitations relating to terrain and topography that create difficulties in meeting the zoning regulations. The 2011 General Plan has identified the Bartam Site as a place suitable for 75 units. As there is a significant grade change due to the bedrock formation on the west portion of the lot, and very deep bedrock underneath the flat portion of the lot, it makes it difficult for the developer to achieve a high density development.
(d) Natural Features	✓		The subject site has natural features including rock outcrops and natural vegetation. As per Section 8.2 (a) Design Standards for Twin Pine Hill, the developer will minimize terrain disturbance and will not be blasting any bedrock. However, this decreases the available buildable area on the lot in which to build a high density structure.
(e) Error in Siting		✓	N/A
(f) Use Conforms	✓		Council Motion #0074-20: That Council approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17 Block 80 (former Bartam site- 4024 School Draw Avenue).

7) Analysis:

Provide your analysis, using the City’s regulatory documents, of the following issues (use additional pages if required). Include variances, alternatives to requirements, recommendations, justifications, and any other pertinent information.

Drainage and grading	Indicated on the site plan: Drainage sloped away from the building, parking lot grade will be no greater than 8%. Water and Sewer lines are present on the drawing.
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Residential Zones (R1 – R7)

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	<p>Some grading work on the Southwest portion is required.</p>
<p>Parking and driveways</p>	<p>Required Vehicle Parking: 75 Provided: 76 Required Bicycle Parking: 11 Provided: 12</p> <p>As per Section 8.2 (h) Design Standards for Twin Pine Hill, parking lots shall be developed in smaller groupings and may not exceed 40 parking stalls. In order to achieve this requirement while also still maintaining proper driveway traffic flow, a landscaping bump out has been added that splits the largest parking lot into two smaller groupings into 27 spaces and 29 spaces. As well, a few parking spaces were shifted from the parking lot oriented in the East to the two parking lots North and South. These parking lots are 8 spaces and 10 spaces respectively.</p> <p>Parking was oriented towards the front of the building, as orienting the parking towards the rear was not possible due to the requirement that the building foundation be underpinned to the bedrock that exists towards the back of the site.</p>
<p>Architecture</p>	<p><i>2011 General Plan Section 4.2 Character Areas & Section 4.2.1 Old Town</i></p> <p>As the development site is located within the Old Town Character Area, the development must respond carefully in order to respect the organic and authentic character of the area.</p> <p>Relevant policies and analysis of them are included below:</p> <p><i>a. Design of buildings should celebrate the eclectic character of built form in Old Town by sensitively contrasting building massing, materials and colour.</i></p> <ul style="list-style-type: none"> • Massing- The developer utilized varying roof lines to provide articulations in the massing. The building is also articulated through the use of recessed and protruded balconies. An awning over the front entrance provides a transition between the base of the front section and the upper levels. The materials and colour also assist with the massing of the structure, as they visually break up the building into distinct sections. • Materials- The materials selected include wood siding, galvanized metal, and stone. These materials compliment each other, while still creating accents and echoing existing cladding materials found in Old Town. The use of natural materials respect the organic character of the area. • Colour- The use of blue, grey, browns and contrasting orange accentuate the features of the building and create visual interest while respecting the local colours of rock, lichen, trees, and water.

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	<p>The use of a vibrant orange allows the building to blend in with the Old Town eclectic style.</p> <p><i>b. Massing and scale of buildings should respect the human-scale of Old Town streets, respond to any adjacent public gathering spaces, and emphasize priority of pedestrian activity.</i></p> <ul style="list-style-type: none"> • The massing of the building, through the elements explored above, create a recurring rhythm that enhances the pedestrian environment. The use of balconies on the ground floor respects the human-scale of Old Town by increasing visual permeability and increasing the chances of person-to-person interaction. • Although the building is setback from School Draw Avenue, the structure responds to adjacent public gathering spaces by including pedestrian connections to the Twin Pine Hill Trail System, Rotary Park, and Northwards towards Franklin Avenue. • Pedestrian Activity is prioritized through the inclusion of landscaped sidewalk bump-outs in the parking lot, good North and South connections, and adequate landscaping that utilize natural elements. <p><i>f. No building should exceed 3 storeys in height. Exceptions to this height limit will be considered for sites along Franklin Avenue (west of Weaver Drive), subject to conformity and compatibility criteria in Section 4.1 and to the design guidelines of this section.</i></p> <ul style="list-style-type: none"> • This policy utilizes the word “should”, which indicates that the policy is recommended, but not mandatory. Given that lower density development is strongly discouraged in other areas of the General Plan in regards to this site and transitions are strongly encouraged between lands designated Mixed-Use and Residential Community, an exception can be made for the Bartam Site and heights can be increased to a certain extent. • Section 10.18 (4) (b) of the Zoning Bylaw states that “<i>The relationship of the use to adjacent residential areas will be a factor in considering the size, site plan and architectural treatment of the building</i>”. The proposed development, in close proximity to the downtown core, is considered an appropriate height. A building exceeding 4 storeys in height would not be considered appropriate in the core of the OM zone where lower intensity land uses and smaller scale buildings predominate. • The proposed development has also applied for a variance. This variance has been analyzed above and has passed the tests for variance as outlined in Section 3.5 (4) of the Zoning Bylaw.
<p>Design standards</p>	<p>All development within the boundaries of Twin Pine Hill are subject to the following design standards found in Section 8.2:</p> <p><i>(a) Buildings shall be designed to blend in to the natural landscape by minimizing terrain disturbance, and shall utilize natural features identified in the referenced Schedule No. 2.</i></p>

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	<ul style="list-style-type: none">• Terrain disturbance is minimized because the blasting of rock is not required.• The applicants have utilized natural materials, colours, and landscaping in order to blend into the natural landscape. <p><i>(b) Streets developed to access the site shall be located so as to minimize terrain disturbance, and shall be constructed to meet minimum vehicular circulation standards. Street and parking area lighting shall be used to minimize the height of overhead lighting, and to ensure lighting is directed with as narrow a downward band as possible. Lighting specifications in terms of the intensity of light are to be the minimum required to provide for safety and security.</i></p> <ul style="list-style-type: none">• No street development is required for this application, therefore the first sentence is not applicable. However, a Traffic Impact Study is required and the developer is held accountable to implementing mitigations to traffic flow through the Development Agreement.• The applicant has indicated on the site plan that lighting specifications will meet this requirement. <p><i>(c) A sidewalk shall be developed in conjunction with street development. The sidewalk may form part of a multi-purpose trail system for the area. A 4 metre landscaped buffer strip between the street and sidewalk shall be utilized where possible.</i></p> <ul style="list-style-type: none">• N/A- no street is being developed for this application. <p><i>(d) Any proposed development shall incorporate linkages to the trail system outlined in the referenced Schedule No. 2.</i></p> <ul style="list-style-type: none">• The applicant has proposed a trail linkage to the Twin Pine Hill trail system on the southern end of the lot. <p><i>(e) The forested area outlined in the referenced Schedule No. 2 shall not be removed or broken into smaller areas through the development of buildings or structures.</i></p> <ul style="list-style-type: none">• N/A- the lot is not within Schedule 2. <p><i>(f) Any structure or roadway which is developed on, or disrupts the values of the trails or viewpoints identified in the referenced Schedule No. 2, shall provide in compensation, a public trail or viewing area within the building envelope or development area to the satisfaction of the Development Officer.</i></p> <ul style="list-style-type: none">• N/A- but the applicant has proposed a trail linkage to the Twin Pine Hill trail system on the southern end of the lot. <p><i>(g) For any hotel development, the off street parking requirements shall be one stall for every 2.5 rooms.</i></p> <ul style="list-style-type: none">• N/A <p><i>(h) Parking lots shall be developed in smaller groupings to minimize terrain disturbance, but no individual parking lot may exceed 40 parking stalls.</i></p>
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	<ul style="list-style-type: none">• The applicant has developed the parking lot into smaller groupings that do not exceed 40 parking stalls. <p><i>(i) No building shall have exposed mechanical or ventilation equipment.</i></p> <ul style="list-style-type: none">• The applicant has hidden mechanical and ventilation equipment through a decorative roof and parapet. <p><i>(j) All loading and garbage areas shall be enclosed or screened.</i></p> <ul style="list-style-type: none">• The loading and garbage area is appropriately screened. <p><i>(k) Natural trees and shrubs shall be retained outside of a 2 metre perimeter around the footprint of any building, structure or parking area.</i></p> <ul style="list-style-type: none">• This requirement will be added as a condition to the development permit, and landscaping around the structure will enhance existing natural trees and shrubs.
<p>Other (explain):</p>	<p>Correspondence with the fire division was held regarding the project on July 27, 2020. The Fire Division will complete a more thorough review during the building permit stage, but confirmation of the following details included:</p> <ul style="list-style-type: none">• Proposed Driveway is more than 6 m in width (Driveway is 6.8 m);• The minimum distance between the fire hydrant and the building is 45 m (Distance is 25 m)• Placement of the stand pipe (Has not yet been determined, but the mechanical room and W/S lines are within 45 m of the fire hydrant)

Docs # 615943

Sign off electronic or hard copy and attach to Cityview as PDF.

APPENDIX J:
Legal & Professional Planning Opinion
Regarding 'Similar Use'



CITY OF YELLOWKNIFE

MEMORANDUM TO COUNCIL (For Information Only)

DATE: May 11, 2020

DEPARTMENT: Administration

ISSUE: Considerations regarding a Conditionally Permitted Use (Similar Use) at Lot 17, Block 80 (4024 School Draw Avenue).

BACKGROUND:

On May 4, 2020 a Memorandum to Committee was presented to the Governance and Priorities Committee (GPC) regarding approval of a Conditionally Permitted Use (Similar Use) at Lot 17, Block 80 (4024 School Draw Avenue), the former Bartam Trailer Park. GPC members heard from the Developer, neighbourhood residents, and Administration. Subsequent to discussion at that meeting, at its May 11, 2020 meeting, GPC requested Administration to provide additional information on this issue.

1. Similar Use – how is this decision reached?

Both the *Community Planning & Development Act* and the Zoning By-law give Council authority to determine similar uses. It's essentially based on determining whether the proposed development is similar in nature to another use of land or building in the zone that is permitted.

Recognizing that not every situation could be contemplated in a zoning by-law, most legislation grants municipalities the ability to approve development with some flexibility. No by-law could ever be drafted to enumerate every possible specific or anticipated uses which mirror a proposed use. Some flexibility must be given to local authorities to decide if a proposed use is similar to the permitted uses in the by-law. The purpose of a 'similar use' category is explained in *Municipalities and Canadian Law: Defining the Authority of Local Governments*, Saskatoon, Purich Publishing, 1996 by F. Hoehn at page 254:

Land use bylaws are designed for normal, foreseeable situations and needs. No matter how carefully they are drafted, they cannot accommodate all the varieties of size, shape, and topography of lots; problems or innovations in construction; or the individual needs of all potential users and owners of land. As well, mistakes made by owners and builders may result in minor nonconformities that may be expensive to rectify after construction is complete. Insisting on compliance with the letter of the bylaw in all such

situations would often cause hardships that could not be justified by prejudice to either the intent and purpose of the bylaw to neighboring properties.

Were it not possible to obtain minor exemptions to the provisions of a zoning bylaw, an owner could apply for an amendment to the bylaw, but this might be difficult to obtain. Frequent requests for amendments would tax the time and resources of municipal councils. Even if a municipality were sympathetic with the plight of an owner facing needless hardship, a bylaw amendment offers at best a procedurally complex, time-consuming, and expensive remedy to the problem. It is for these reasons that most jurisdictions provide mechanisms for minor exemptions to the provisions of zoning bylaws, without requiring that the bylaw itself be amended.

2. Council's Role - when does Council discuss/impose conditions?

Council can discuss/recommend conditions when you approve the application (S. 3.4 of Zoning By-law) based on the merits of the application. At the Council meeting on Monday May 11, Council will have the opportunity to consider conditions as per S. 3.4.3 of the Zoning By-law. Later in this document, Administration provides background context and recommendations on conditionally permitted use, conditions that could be set by Council.

3. Alternative process – Amend the Zoning by-law?

This is an option and could be done in the following ways:

- (i) Amend the Conditionally Permitted Use section – add Multi-family dwelling
- (ii) Update definitions - so that presence/absence of an outside door isn't the defining factor
- (iii) Site Specific Zone - a change that allows that type of development on that lot only - but should only be used in exceptional circumstances (which don't exist in this situation).

However, in alignment with the comments in #2 above on re-zoning, the City has historically chosen to not use rezoning as a mechanism to permit individual development requests. Using the rezoning mechanism to accommodate individual development requests results in a patchwork of zones that are challenging to monitor and track, and that when multiple examples are enacted, cumulatively results in a neighborhood that “drifts” from the original intent of the General Plan.

On occasion, a site specific zone has been crafted to accommodate a proposed development such as the temporary worker's accommodation next to the Multiplex, site specific zoning for the hospital or the site specific zoning for the funeral home. Site specific zones are an applicable consideration when it involves a land use that the zoning by-law has not considered, or when the land use is too dis-similar to the permitted or conditionally permitted uses in the zone.

4. Powers - What powers does Council have regarding a conditionally permitted use?

2.4 Council

(1) Council shall:

(c) Make decisions and state any terms and conditions, as authorized by this by-law, for those uses listed as Permitted Uses and Conditionally Permitted Uses requiring a variance;

3.4 (2) In making a decision on an Application for a Development Permit for a Conditionally Permitted Use, Council:

- (a) May approve the application if the proposed development meets the requirements of this by-law, **with or without conditions**, based on the merits of the application, the *Community Planning and Development Act*, by-law or approved plan or policy affecting the site, or;
- (b) May refuse the application even though it meets the requirements of this by-law, or;
- (c) Shall refuse the application if the proposed development does not conform to this by-law, unless a variance has been granted pursuant to Section 3.5.

(3) In reviewing an Application for a Development Permit for a Conditionally Permitted Use, Council shall have regard to:

- (a) The circumstances and merits of the application, including, but not limited to:
 - i) The impact on properties in the vicinity of such factors as airborne emissions, odors, smoke, traffic and noise, sun shadow and wind effects;
 - ii) The design, character and appearance of the proposed development, and in particular whether it is compatible with and complementary to the surrounding properties, and;
 - iii) The treatment provided to site considerations including landscaping, screening, parking and loading, open spaces, lighting and signs.

As amended by By-law No. 4913 October 24, 2016

- (b) The purpose and intent of the General Plan and the applicable Area Development Plan adopted by the City.
- (c) The purpose and intent of any non-statutory plan or policy adopted by the City.

(4) Notwithstanding any provisions or requirements of this by-law, Council may establish a more stringent standard for a Conditionally Permitted Use when Council deems it necessary to do so.

5. Precedent - What has Council done historically around conditionally permitted use? What conditions has Council set in the past?

Date of GPC	Conditionally Permitted Use	Council Motion No.	Conditions Attached?
Aug 26, 2019	Child Care Facility – 5203-53 Street	0191-19	None.
July 22, 2019	Special Care Facility – 5023-49 th Street, Yellowknife Women’s Society	#0179-19	Valid until March 30, 2020 A Good Neighbour Agreement be implemented for the duration of their operation.
March 11, 2019	Cannabis Production Facility as a Similar Use	#0069-19	None.
May 27, 2019	Special Care Facility / Transitional Housing (Arnica Inn)	#0151-19	None.
May 27, 2019	Industrial Use (Brewery) at 4001 School Draw Ave	#0153-19	None.
October 22, 2018	Public and Quasi-Public Use (Mosque)	#0337-18	None.

June 25, 2018	Food/Beverage Service – Soul Foods on Old Airport Road	#0236-18	- direct Administration to determine the funding source for \$63,000 from the 2018 Budget, at the SAO's Discretion, to implement the City's portion of the traffic study recommendation to extend the left turn storage bay on Old Airport Road at Range lake Road in conjunction with the approval of Development Permit PI-2017-0434, - direct Administration to bring forward, during the 2020 Budget deliberations, an Area Development Plan for the impacted area due to the increase in current and potential development.
October 23, 2017	Food Services (Booster Juice) at 419 Byrne Rd	#0228-17	None.
September 25, 2017	Special Care Facility at (5111 50 th St)	#0206-17	That Administration be directed to work with the Dept of Health & Social Services / GNWT on the creation of a Safety and Security Plan
May 23, 2017	Dog Daycare Use at 138 Curry Dr	#106-17	None.
March 20, 2017	Temporary Similar Use (similar to Single Detached Dwelling); Block 501 (cabin construction)	#0052-17	A limited term until May 30, 2018
August 22, 2016	Temporary Workers Accommodation	#0221-16	A term of four years
July 11, 2016	Temporary Work Camp (near Fieldhouse)	#0170-16	1. Bird/Clark Joint Venture shall enter into a two-year lease agreement with the City for the required land with payment of \$10,000 environmental security deposit and municipal taxes as prescribed by the Fees and Charges By-law, and in lieu of lease fee the Joint Venture will be responsible for the site preparation cost, which is estimated to be \$562,429.85 with breakdown provided as follows: **Please see Special Council Minutes - July 11, 2016 for the table in the complete motion. 2. Bird/Clark Joint Venture shall enter into a Development Agreement with the City and provide a performance bond of \$20,000 for camp removal.
June 27, 2016	Hotel Use (adjacent to Arnica Inn – Slave Lake Inn)	#0146-16	None.
September 14, 2015	Temporary Storage as an Industrial Use (Lot 1 Block 553)	#0298-15	1) The maximum number of ATCO trailers stored on site is limited to seven (7); 2) The storage of seven (7) ATCO trailers is permitted for a maximum period of 1 year, commencing from the date of Council's resolution; 3) No further tree clearing shall occur on site without application and issuance of a Development Permit authorizing said clearing; and 4) All other applicable provisions of the Zoning By-law as required by the Development Officer.

August 24, 2015	Duplexes; Block 501	#0286-15	Direct Administration to complete the development permit review process for all applications with any appropriate conditions as per Zoning By-Law No. 4404 requirements.
August 24, 2015	Duplexes; Stevens Crescent	#0287-15	Approval of the side yard setback variance under Development Permit PL-2015-0208. Note: side yard setback variances are no longer approved by Council due to shifted priorities.
August 24, 2015	A golf course as a type of "Commercial Recreation"	#0252-15	None.
August 24, 2015	Food & Beverage Service at 335 Old Airport Rd	#0259-15	Conditions regarding provisions of the Zoning By-Law as required by the Development Officer.
January 26, 2015	Veterinary Clinic as an Animal Services Use at 308 Woolgar Ave	#0012-15	1) The proposed facility shall be operated as a "veterinary clinic" as defined under the Zoning By-law; 2) No overnight boarding shall be permitted unless it is medically necessary and no outdoor boarding or cremating at any time; 3) All other applicable provisions of the Zoning By-law as required by the Development Officer.
January 12, 2015	Duplex Use at 133 Hall Cres Duplex Use at 471 Hall Cres	#0007-15	"Direct Administration to complete the development permit approval process for both applications with any appropriate conditions as per Zoning By-law No. 4404 requirements"

6. 2011 General Plan – what exactly does it say relevant to this proposed development?

Section 2.3.4 - Residential Land Development & Development Priority:

The 2011 General Plan supports higher density at Lot 17 Block 80, which is referred as "Twin Pine Hill/Bartam" in the Plan. The support for higher density is established as the "Twin Pine Hill/Bartam" site is shown as Development Priority A (see Figure 1) and identifies it as a suitable location for up to 75 units.

Section 3.5 - Mixed-Use Designation

Old Town has a Mixed-Use Designation, which is identified as representing a key element in the 2011 General Plan's strategy to accommodate and direct growth in the city. High density residential development is encouraged for developable land in the designation that falls within 120m of a transit-oriented development node. Low density development is discouraged. Heights can be increased or decreased to a certain extent.



Sections 4.2 Character Areas & 4.2.1 Old Town

The design of the proposed development should reflect the nature of the Old Town character area while balancing the call for higher density at the subject site.

Section 5.3 - Transit Oriented Development Nodes

The subject property falls within 120m of a transit stop, which means it is a Transit Oriented Development (TOD) node. Properties within TOD nodes are encouraged to have high to medium density.

7. Conditions for this proposed development at 4024 School Draw - What conditions would be appropriate for Council to place on this Conditionally Permitted use, should Council opt to approve it on Monday May 11th?

Section 3.4.3 of the Zoning By-law speaks to the conditions Council can consider when approving a Conditionally Permitted use. The most important condition is the requirement that the design, character and appearance of the proposed development must be compatible and complementary to the physical look and feel of Old Town. The majority of all public comments submitted to date have focused on building design and the lack of compatibility with the Old Town neighborhood. The developer can take a number of steps and efforts to ensure that the building and development design is in keeping with the look and feel of Old Town.

In reviewing an Application for a Development Permit for a Conditionally Permitted Use, Council shall have regard to:	Proposed Conditions
The impact on properties in the vicinity of such factors as airborne emissions, odors, smoke, traffic and noise, sun shadow and wind effects	<p>A traffic impact study to inform the final location of vehicle access and egress points and to identify any off-site road and pedestrian infrastructure improvements that are required to accommodate the proposed development.</p> <p>A report showing the effect of sun shadow produced by the proposed development.</p>
The design, character and appearance of the proposed development, and in particular whether it is compatible with and complementary to the surrounding properties	The design, character and appearance of the proposed development must be compatible and complementary to the physical look and feel of Old Town.
The treatment provided to site considerations including landscaping, screening, parking and loading, open spaces, lighting and signs	<p>The landscaping plan must be comparable and compatible with the landscaping aesthetics in Old Town. The landscaping plan should consider preservation of mature trees, plant species typical of the Northern Boreal Forest, and a focus on reclamation and revegetation rather than manicured gardens.</p> <p>A landscaping buffer must be used to screen the parking area from pedestrians and School Draw Avenue.</p>

	<p>Parking lots must be broken into smaller groupings and no individual parking lot may exceed 40 parking stalls.</p> <p>Building and site lighting must be comparable and compatible with the lighting aesthetic in Old Town.</p> <p>Building signage must not be illuminated.</p>
--	---

COUNCIL POLICY / RESOLUTION OR GOAL:

Council Goal #4 Driving strategic land development and growth opportunities

Objective 4.1 Diversify development options

Objective 4.2: Promote development across the City

APPLICABLE LEGISLATION, BY-LAWS, STUDIES, PLANS:

1. Community Planning and Development Act, S.N.W.T. 2011;
2. General Plan By-law (2011) No. 4656, as amended;
3. Zoning By-law No. 4404, as amended.

ATTACHMENTS:

Applicable legislation (DM#608778)

Prepared: May 11, 2020; KLP/klp

Memo



To: Rob Lok, Manager of Planning and Lands Division, City of Yellowknife
From: Margaret Kralt, Planner, Dillon Consulting Limited
Date: September 1, 2020
Subject: Bartam Similar Use
Our File: File# 20-3139

This memo is not legal advice, it is professional opinion provided by registered professional planners based on our interpretation of planning practice.

Background

Dillon Consulting Limited (Dillon) was asked by the City of Yellowknife's Administration to provide a professional planning response to the following question:

If a "use" is listed in one zone, that "use" can't be considered as a "similar use" in another zone because it is contrary to the intent of the Zoning Bylaw (ZB). If the authors of the ZB as contemplated the "use" being appropriate zones (listed as a permitted use in the zone), it can then be inferred that because the "use" is not listed in other zones, it is therefore not considered appropriate for those zones. The similar use clause is to allow for uses that have not been contemplated in the zoning bylaw.

It is our understanding that the City of Yellowknife's Administration provided a legal memo City Council on this subject. As such, we are not providing further commentary on the City's practices, but instead have prepared a response based on the Northwest Territories Community Planning and Development Act and common planning practice, as drawn from an industry recognized reference standard the Zoning Trilogy Provisions (Edition 2016).

Northwest Territories Community Planning and Development Act

The NWT's Community Planning Act (the Act) defines "similar use" as:

- s.22 A zoning bylaw may authorize a development authority, on an application for a development permit to
- (a) determine whether or not a specific use of land or a building, that is not provided for in the bylaw with respect to a zone, is similar in character and purpose to another use of land or a building that is included, in accordance with paragraph 14(1)(c), in the use specified in the bylaw for that zone; and
 - (b) treat an application involving a similar use in the same manner as an application for a development permit in respect of a use referred to in subparagraph 14(1)(c)(iii) or (iv).

The Act does not explicitly say that the definition of "similar use" is only applied if the use is not already defined in the Zoning Bylaw. Our interpretation is that similar use should only be applied to the permitted or discretionary uses in an individual zone.

Best Planning Practice

It is difficult to draw clear conclusions on best practice for the interpretation of “similar use” without having sufficient available examples. This would require an in-depth review of decisions for development permit applications for “similar use” across multiple jurisdictions, of which we do have access. To provide some best practices, we have drawn on an industry accepted planning resource, the Zoning Trilogy Provisions Encyclopedia (Edition 2016). The Zoning Trilogy is a resource for planners, lawyers and others involved with Zoning By-laws and draws on a wide variety of sources including by-laws, studies and other documents produced over the period from 1950 to date. It includes two different definitions for “similar use”. The definitions are as follows:

1. Uses other than those hereinafter specifically mentioned as uses in each of the districts, may be permitted therein, provided such uses are similar to those specifically mentioned and are, in the opinion of the Planning Commission as evidence by a resolution of record, not more obnoxious or detrimental to the welfare of the community, than the permitted uses specifically mentioned in the respective district.
2. Where any proposed use is not specifically shown in any zone, but appears to be similar in character and purpose to the one shown as permitted or conditionally permitted in any zone, application for its approval in such a zone may be made to the Development Officer.

The two example definitions are different based on our interpretation. The City may want to consider these additional definitions for legal interpretation.

The first connects the use of the “similar use” definition to the uses specifically mentioned in each district (or zone as it is referred to in the City of Yellowknife’s ZB). Our interpretation is that the application of the definition “similar use” is only appropriate when compared to the permitted and conditional uses in the specific zone, providing the appropriate process for the approval of the development permit application is applied.

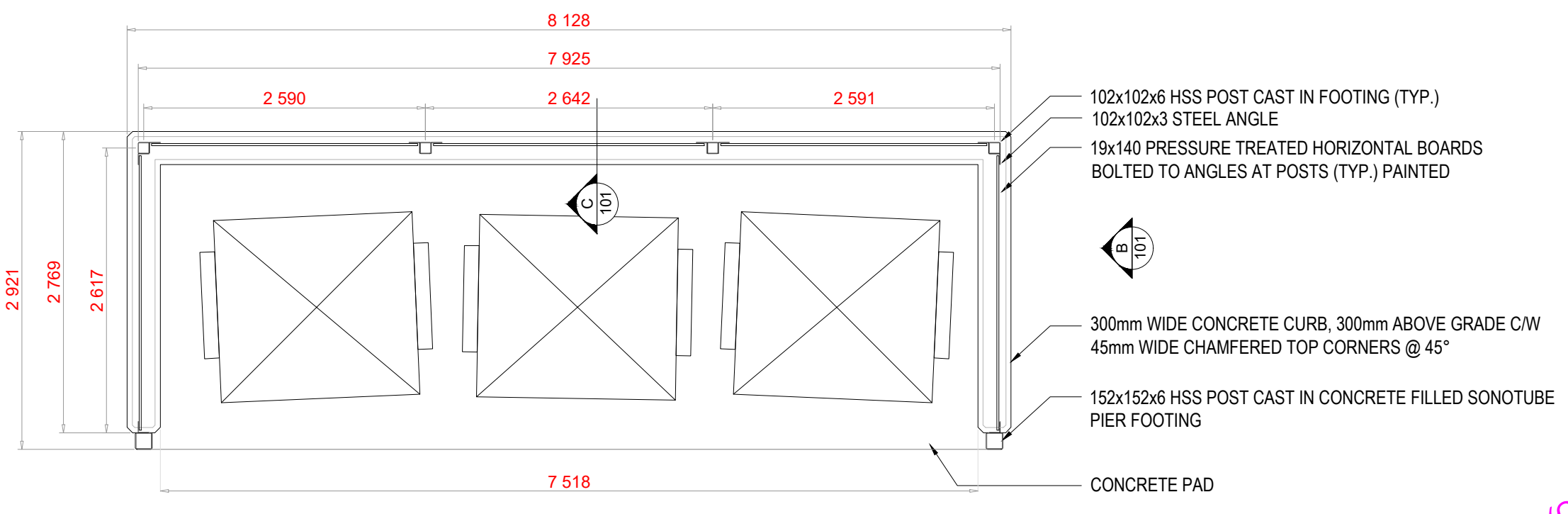
The second definition is different. Our interpretation is that it does not connect the use of “similar use” to an individual zone, but instead to all zones. Meaning, if the proposed use is a permitted or conditional use in another zone, then the use of the definition is only applicable if a proposed use is not defined in the Zoning Bylaw.

The City’s definition of “similar use” included in Zoning Bylaw #4404 (the current adopted ZB) is:

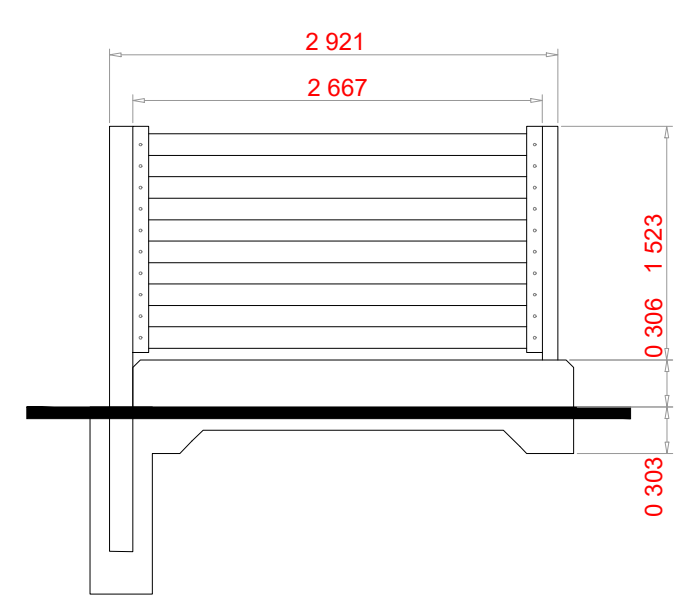
“Means development deemed by Council to be similar in nature to a permitted or conditionally permitted use.”

The definition is vague and does not provide interpretation on whether this is applied to the permitted or conditionally permitted uses in a specific zone or in all zones. City Council should consider their own best practice. As referenced above, we understand Administration completed a review of best practices summarized in a legal memo presented to Council. As a result, this was not included in our review and prepared response.

APPENDIX K:
Development Permit & Approved Plans



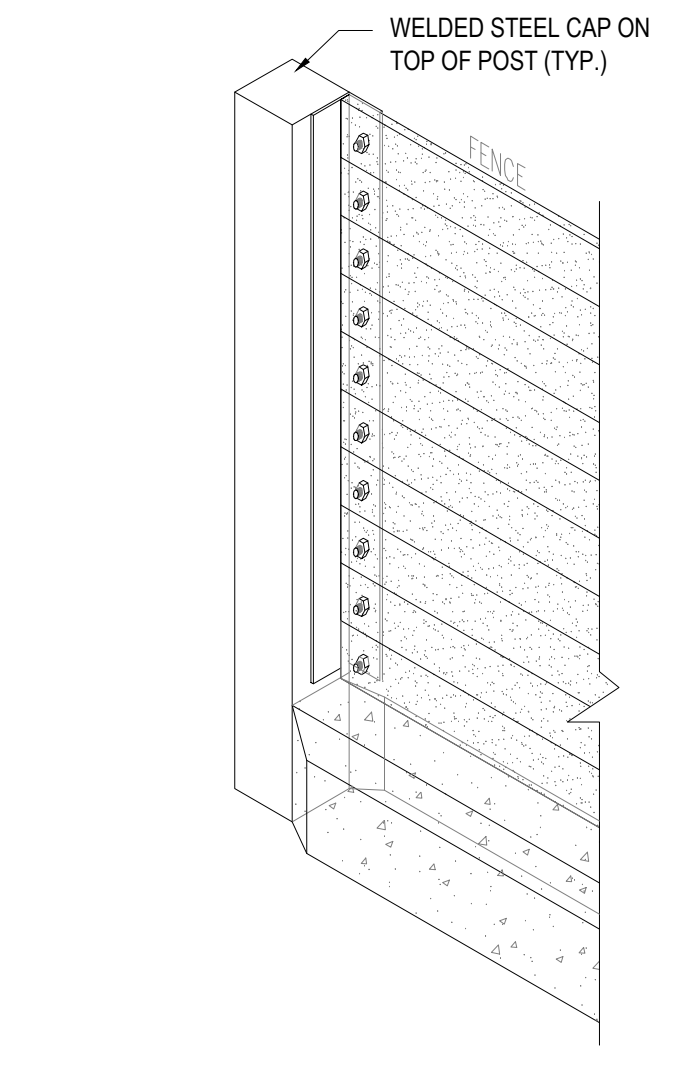
A GARBAGE ENCLOSURE FOR 3 6YD CONTAINERS
GARBAGE ENCLOSURE PLAN
 3/8"=1'-0"



B GARBAGE ENCLOSURE FOR 3 6YD CONTAINERS
GARBAGE ENCLOSURE ELEVATION
 3/8"=1'-0"

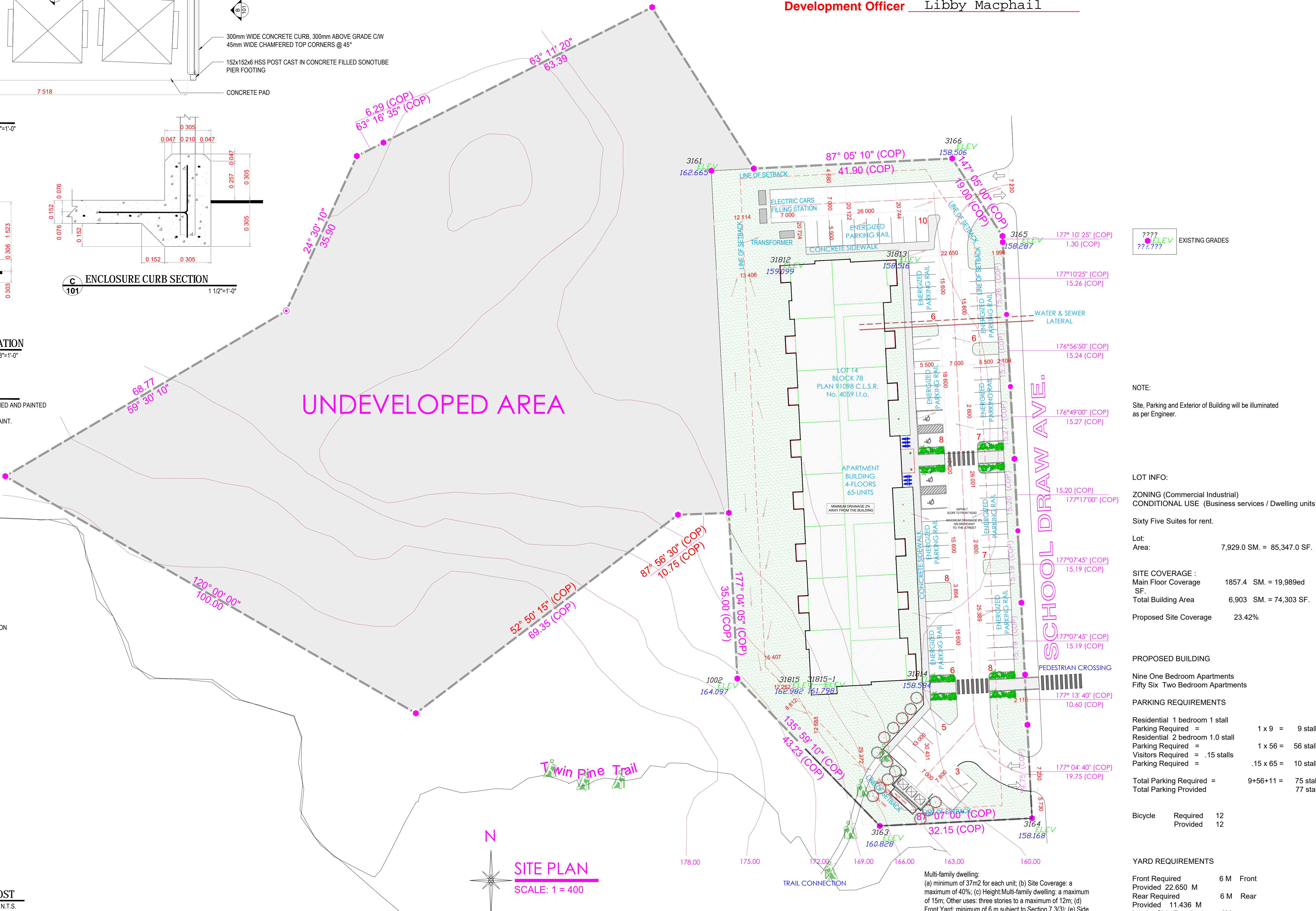
GARBAGE ENCLOSURE NOTES

- ALL STEEL FRAMES / COMPONENTS TO BE SHOP PRIMED AND PAINTED COLOUR TO BE EP-1 PER SHEET 01-123
- ALL WOOD COMPONENTS TO HAVE TWO COATS OF PAINT.



D ENCLOSURE FRONT POST
 ISOMETRIC VIEW N.T.S.

- ALL STEEL FRAMES / COMPONENTS TO BE SHOP PRIMED AND PAINTED COLOUR TO BE EP-1 PER SHEET 01-123
- ALL WOOD COMPONENTS TO HAVE TWO COATS OF PAINT.



????
 ELEV
 ???, ???

NOTE:
 Site, Parking and Exterior of Building will be illuminated as per Engineer.

LOT INFO:
 ZONING (Commercial Industrial)
 CONDITIONAL USE (Business services / Dwelling units)

Sixty Five Suites for rent.
 Lot:
 Area: 7,929.0 SM. = 85,347.0 SF.

SITE COVERAGE :
 Main Floor Coverage 1857.4 SM. = 19,989 SF.
 Total Building Area 6,903 SM. = 74,303 SF.
 Proposed Site Coverage 23.42%

PROPOSED BUILDING
 Nine One Bedroom Apartments
 Fifty Six Two Bedroom Apartments

PARKING REQUIREMENTS

Residential 1 bedroom 1 stall		
Parking Required =	1 x 9 =	9 stalls
Residential 2 bedroom 1.0 stall		
Parking Required =	1 x 56 =	56 stalls
Visitors Required =	.15 stalls	
Parking Required =	.15 x 65 =	10 stalls
Total Parking Required =	9+56+11 =	75 stalls
Total Parking Provided		77 stalls

Bicycle Required 12
 Provided 12

YARD REQUIREMENTS

Front Required	6 M	Front
Provided	22.650 M	
Rear Required	6 M	Rear
Provided	11.436 M	
Interior Side Required	2M	
Provided	13.075 M	
Exterior Side Required	3M	
Provided	20.122 M	

Multi-family dwelling:
 (a) minimum of 37m² for each unit; (b) Site Coverage: a maximum of 40%; (c) Height-Multi-family dwelling: a maximum of 15m; Other uses: three stories to a maximum of 12m; (d) Front Yard: minimum of 6 m subject to Section 7.3(3); (e) Side Yard - subject to Section 7.2(5); Single detached dwelling: a minimum of 1.5 m, Duplex dwelling (without side entry): a minimum of 1.5 m, Duplex dwelling (with side entry): a minimum of 2.4 m, Multi-attached dwelling (without side entry): a minimum of 1.8 m subject to Section 7.3(3), Multi-attached dwelling (with side entry): a minimum of 2.4 m subject to Section 7.3(3), Multi-family dwelling: a minimum of 3 m

The Bike Hitch uses thick tube construction and a full radius bend of the ring, making it extremely difficult to cut with a pipe cutter. This popular bike rack has street appeal, a sim silhouette, and accommodates all bike locks

10.9 R3 - Residential - Medium Density (1) General Purpose To provide areas for medium density residential development with a mixture of residential buildings. (2) Uses (a) Permitted Uses are: Single detached dwelling, Duplex dwelling, Multi-family dwelling - subject to Section 7.3, Multi-attached dwelling - subject to Section 7.3.

JAM (2016) INVESTMENTS INC.
 Residential Building
 LOT 14, BLOCK 78, PLAN 91098

ISSUED FOR DEVELOPMENT PERMIT - 4/23/2019
 REVISION-AS PER MEETING 7/19/2019 - 7/23/2019
 REVISED TO MOVE BUILDING LOCATION - 3/18/2020
 REVISED AS PER COMMENTS DATED - 5/22/2020
 REVISED AS PER COMMENTS DATED - 7/16/2020

Tel: (780) 702-6682
 Fax: (780) 702-6686
 #1000, 13920 Yellowhead Trail,
 Edmonton, AB.
 T5L 3C2

All drawings and specifications are instruments of and the property of
 the Consultant and shall not be used without the Consultant's written
 permission. Contractor shall verify all dimensions and details and refer
 any discrepancies to the Consultant before proceeding with the work.
 All prices must be returned to the Consultant.
 Drawings must not be scaled.



EAST ELEVATION

Scale: 3/32" = 1'-0"



WEST ELEVATION







Scale: 3/32" = 1'-0"



SOUTH ELEVATION

Scale: 1/8" = 1'-0"

LEGEND:

-  CORRUGATED GALVANIZED STEEL
-  CANEXEL SIDING
-  CANEXEL SIDING
-  CANEXEL SIDING
-  BLACK METAL RAILING
-  WHITE PVC WINDOWS / DOORS



NORTH ELEVATION

Scale: 1/8" = 1'-0"

NOVA BUILDERS

#1000 - 13920 YELLOWHEAD TRAIL
 EDMONTON, ALBERTA T5L 3C2
 PHONE: 780.702.6682
 FAX: 780.702.6686
 EMAIL: info@novagroup.ca

Project name:

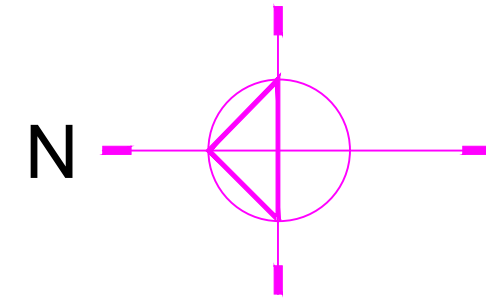
JAM (2016) INVESTMENTS INC.

RESIDENTIAL BUILDING

LOT 17, BLOCK 80, PLAN 4462

Elevations

Designed: J.M. scale: date:
 Drawn: J.M. as noted 9/29/2019



City of Yellowknife

Development Permit # PL-2019-0168

Approved August 11, 2020

Development Officer Libby Macphail

ISSUED FOR DEVELOPMENT PERMIT - 4/23/2019
 REVISION-AS PER MEETING 7/19/2019 - 7/23/2019
 REVISED TO MOVE BUILDING LOCATION - 3/18/2020
 REVISED AS PER COMMENTS DATED - 5/22/2020

NOVA
 GROUP OF COMPANIES

Tel: (780) 702-6682
 Fax: (780) 702-6686
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seal:

revision:

NOVA BUILDERS

#1000 - 13920 YELLOWHEAD TRAIL,
 EDMONTON, ALBERTA T5L 3C2
 PHONE: 780.702.6682
 FAX: 780.702.6686
 EMAIL: joe_m@novagroup.ca

project name:

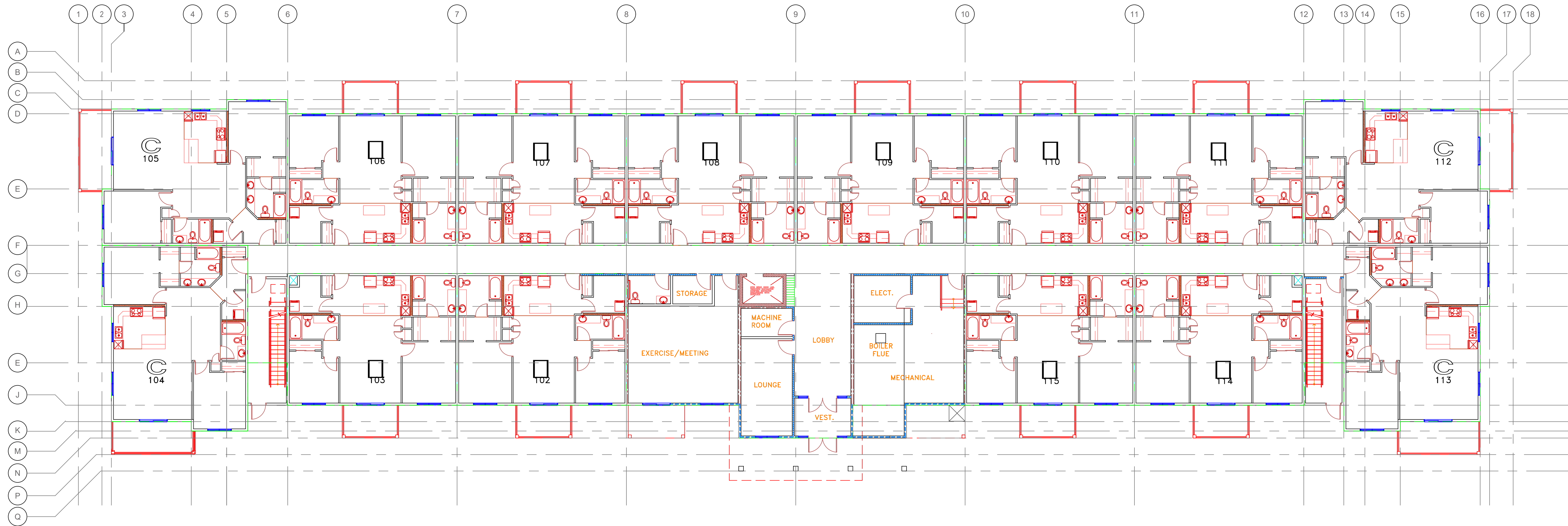
JAM (2016) INVESTMENTS INC.
 RESIDENTIAL BUILDING
 LOT 17, BLOCK 80, PLAN 4462

sheet title:

First Floor Plan

designed: J.M. scale: date:
 drawn: J.M. as noted 9/29/2019

A102



FIRST FLOOR PLAN

Scale: 3/32" = 1'-0" = 18,686 SQ.FT.

FIRST FLOOR SUITES:

TYPE OF SUITE	NO. OF SUITES	TYPE OF UNIT	AREA
TYPE B	10 SUITES	2 BEDROOM, 2 BATH	1008 SQ.FT.
TYPE C	4 SUITES	2 BEDROOM, 2 BATH	1138 SQ.FT.
TOTAL	14 SUITES	2 BEDROOM, 2 BATH	

SECOND FLOOR SUITES:

TYPE OF SUITE	NO. OF SUITES	TYPE OF UNIT	AREA
TYPE A	2 SUITES	1 BEDROOM, 1 BATH	672 SQ.FT.
TYPE A1	1 SUITES	1 BEDROOM, 1 BATH	714 SQ.FT.
TYPE B	10 SUITES	2 BEDROOM, 2 BATH	1008 SQ.FT.
TYPE C	4 SUITES	2 BEDROOM, 2 BATH	1138 SQ.FT.
TOTAL	17 SUITES		

THIRD FLOOR SUITES:

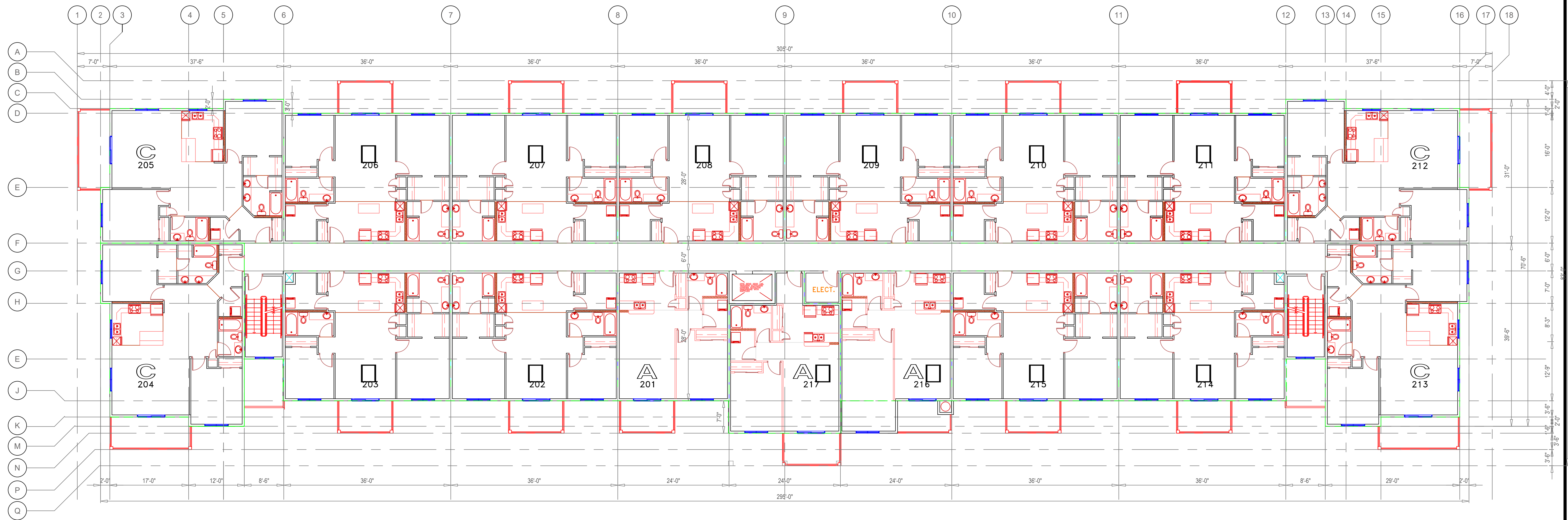
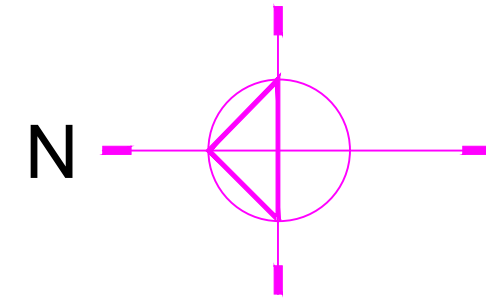
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TYPE C	4 SUITES	2 BEDROOM, 2 BATH	1138 SQ.FT.
TOTAL	17 SUITES		

FOURTH FLOOR SUITES:

TYPE OF SUITE	NO. OF SUITES	TYPE OF UNIT	AREA
TYPE A	2 SUITES	1 BEDROOM, 1 BATH	672 SQ.FT.
TYPE A1	1 SUITES	1 BEDROOM, 1 BATH	714 SQ.FT.
TYPE B	10 SUITES	2 BEDROOM, 2 BATH	1008 SQ.FT.
TYPE C	4 SUITES	2 BEDROOM, 2 BATH	1138 SQ.FT.
TOTAL	17 SUITES		

WALL LEGEND:

- W1 EXTERIOR WALL
- W1a EXTERIOR TALL WALL
- W2 SUITE SEPARATION WALL
- W3 CORRIDOR WALL
- W4 INTERIOR WALL
- W5 INTERIOR TALL WALL
- W6 PLUMBING WALL
- W7 ELEVATOR WALL



SECOND FLOOR PLAN

Scale: 3/32" = 1'-0" = 18,537 SQ.FT.

FIRST FLOOR SUITES:

TYPE OF SUITE	NO. OF SUITES	TYPE OF UNIT	AREA
TYPE B	10 SUITES	2 BEDROOM, 2 BATH	1008 SQ.FT.
TYPE C	4 SUITES	2 BEDROOM, 2 BATH	1138 SQ.FT.
TOTAL	14 SUITES		

SECOND FLOOR SUITES:

TYPE OF SUITE	NO. OF SUITES	TYPE OF UNIT	AREA
TYPE A	2 SUITES	1 BEDROOM, 1 BATH	672 SQ.FT.
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TYPE C	4 SUITES	2 BEDROOM, 2 BATH	1138 SQ.FT.
TOTAL	17 SUITES		

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TOTAL	17 SUITES		

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TOTAL	17 SUITES		

WALL LEGEND:

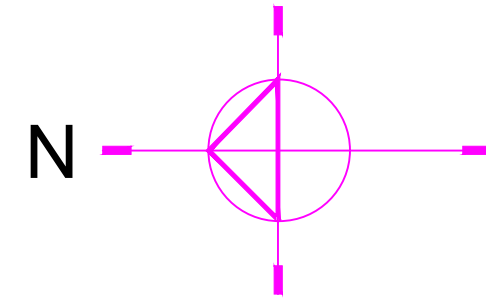
- W1 EXTERIOR WALL
- W1a EXTERIOR TALL WALL
- W2 SUITE SEPARATION WALL
- W3 CORRIDOR WALL
- W4 INTERIOR WALL
- W5 INTERIOR TALL WALL
- W6 PLUMBING WALL
- W7 ELEVATOR WALL

City of Yellowknife

Development Permit # PL-2019-0168

Approved August 11, 2020

Development Officer Libby Macphail



ISSUED FOR DEVELOPMENT PERMIT - 4/23/2019

REVISION-AS PER MEETING 7/19/2019 - 7/23/2019

REVISED TO MOVE BUILDING LOCATION - 3/18/2020

REVISED AS PER COMMENTS DATED - 5/21/2020

NOVA
GROUP OF COMPANIES

Tel: (780) 702-6682
Fax: (780) 702-6686
#1000, 13920 Yellowhead Trail,
Edmonton, AB,
T5L 3C2

All drawings and specifications are instruments of and the property of the Consultant and shall not be used without the Consultant's written permission. Contractor shall verify all dimensions and details and note any discrepancies to the Consultant before proceeding with the work.
All prices must be returned to the Consultant.
Drawings must not be scaled.

seal:

revision:

NOVA BUILDERS

#1000 - 13920 YELLOWHEAD TRAIL
EDMONTON, ALBERTA T5L 3C2
PHONE: 780.702.6682
FAX: 780.702.6686
EMAIL: joe_m@novagroup.ca

project name:

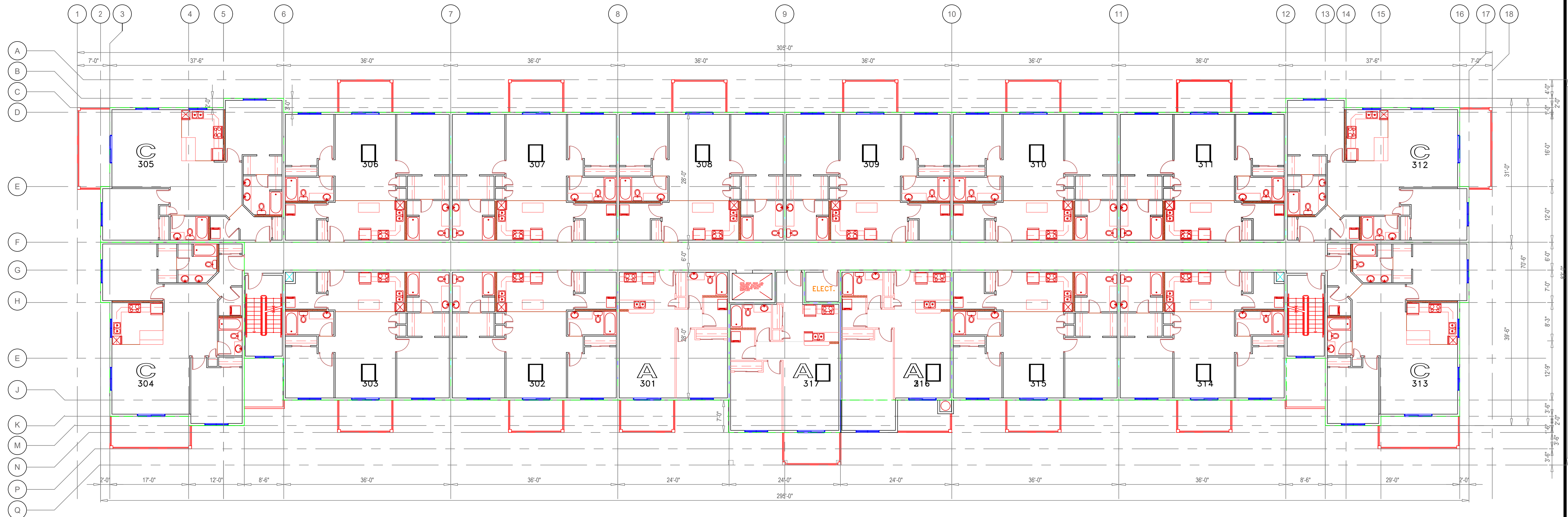
JAM (2016) INVESTMENTS INC.
RESIDENTIAL BUILDING
LOT 17, BLOCK 80, PLAN 4462

sheet title:

Third Floor Plan

designed: J.M. scale: date:
drawn: J.M. as noted 9/29/2019

A104



THIRD FLOOR PLAN

Scale: 1/8" = 1'-0" = 18,537 SQ.FT.

FIRST FLOOR SUITES:

TYPE OF SUITE	NO. OF SUITES	TYPE OF UNIT	AREA
TYPE B	10 SUITES	2 BEDROOM, 2 BATH	1008 SQ.FT.
TYPE C	4 SUITES	2 BEDROOM, 2 BATH	1138 SQ.FT.
TOTAL	14 SUITES		

SECOND FLOOR SUITES:

TYPE OF SUITE	NO. OF SUITES	TYPE OF UNIT	AREA
TYPE A	2 SUITES	1 BEDROOM, 1 BATH	672 SQ.FT.
TYPE A1	1 SUITES	1 BEDROOM, 1 BATH	714 SQ.FT.
TYPE B	10 SUITES	2 BEDROOM, 2 BATH	1008 SQ.FT.
TYPE C	4 SUITES	2 BEDROOM, 2 BATH	1138 SQ.FT.
TOTAL	17 SUITES		

THIRD FLOOR SUITES:

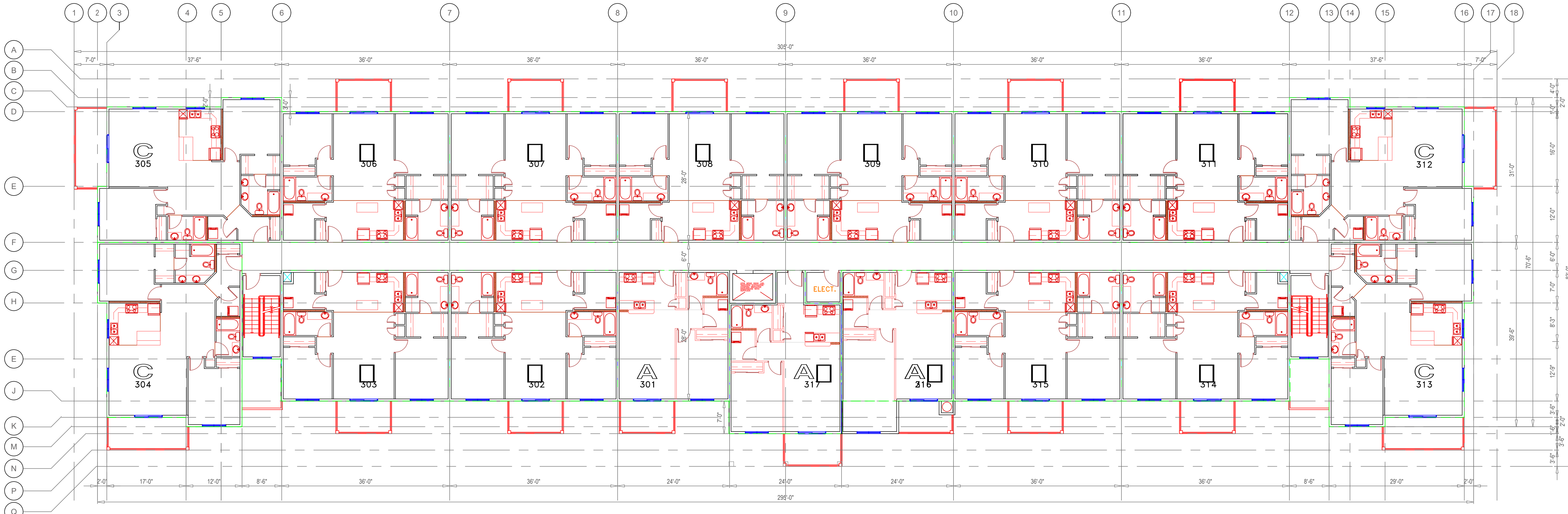
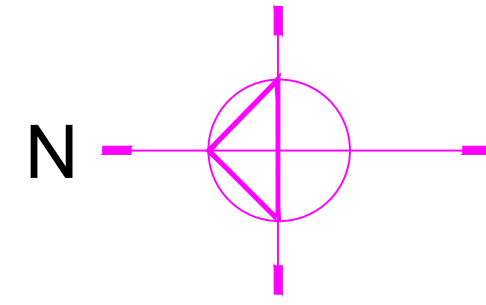
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TOTAL	17 SUITES		

FOURTH FLOOR SUITES:

TYPE OF SUITE	NO. OF SUITES	TYPE OF UNIT	AREA
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TYPE C	4 SUITES	2 BEDROOM, 2 BATH	1138 SQ.FT.
TOTAL	17 SUITES		

WALL LEGEND:

- W1 EXTERIOR WALL
- W1a EXTERIOR TALL WALL
- W2 SUITE SEPARATION WALL
- W3 CORRIDOR WALL
- W4 INTERIOR WALL
- W5 INTERIOR TALL WALL
- W6 PLUMBING WALL
- W7 ELEVATOR WALL



FOURTH FLOOR PLAN

Scale: 1/8" = 1'-0" = 18,537 SQ.FT.

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- W6 PLUMBING WALL
- W7 ELEVATOR WALL

JAM (2016) INVESTMENTS INC.
RESIDENTIAL BUILDING
LOT 17, BLOCK 80, PLAN 4462

sheet title:
Fourth Floor Plan

designed: J.M. scale: date:
drawn: J.M. as noted 9/29/2019

A105

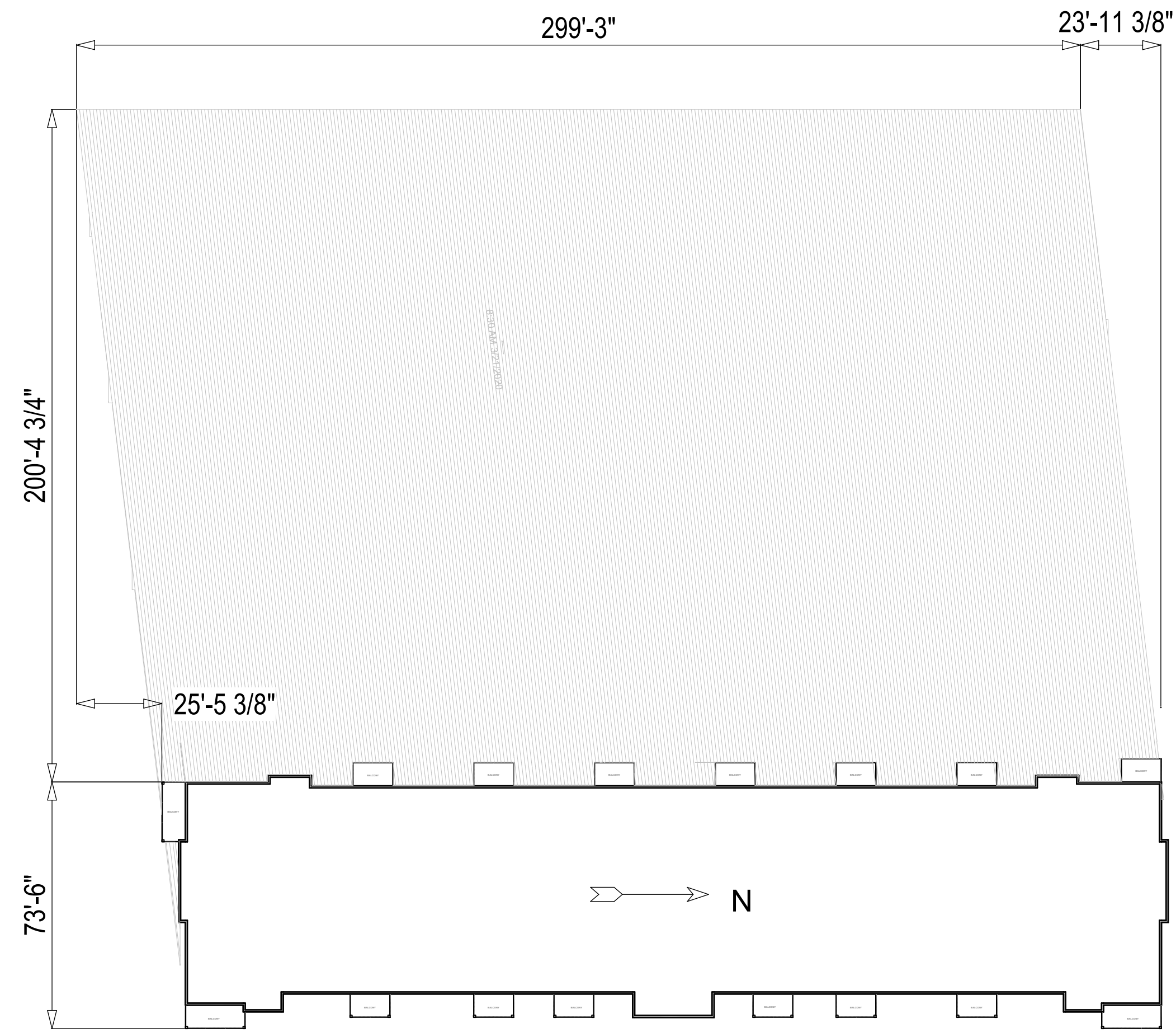
Planner's Note:
 The large rock formation that exists on the western portion of the lot was unable to be rendered. It is expected that the shadows presented in this study will be overshadowed by the rock formation behind the structure.

City of Yellowknife

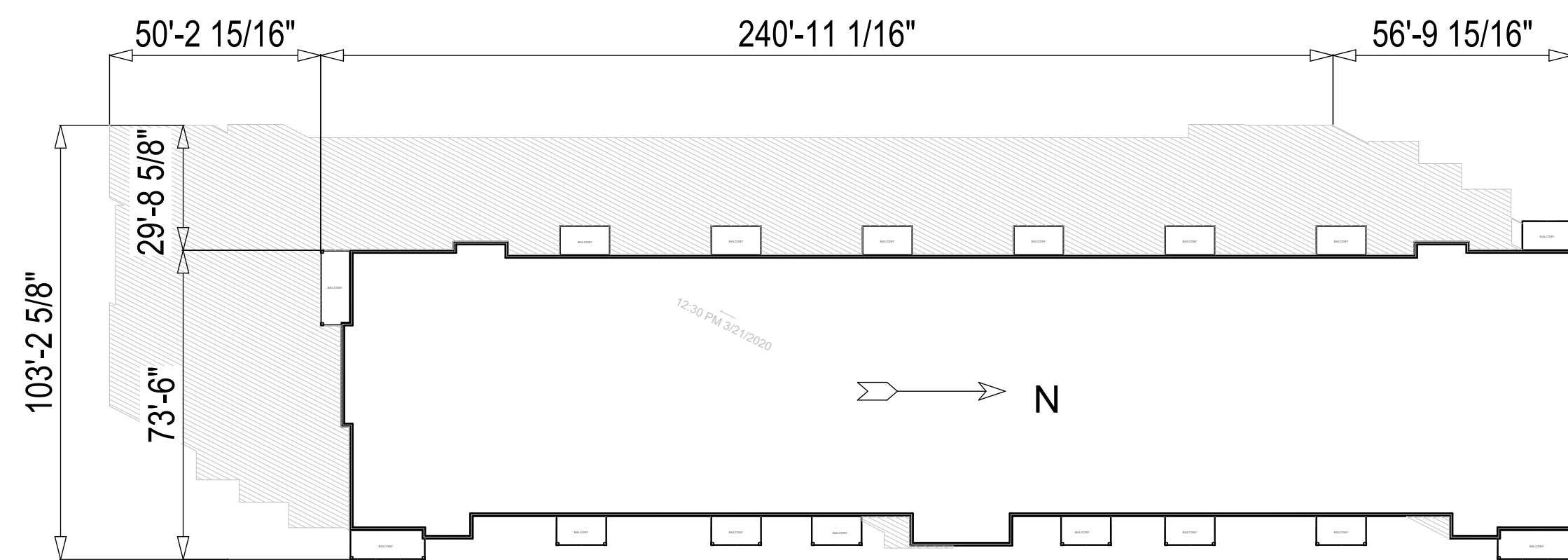
Development Permit # PL-2019-0168

Approved August 11, 2020

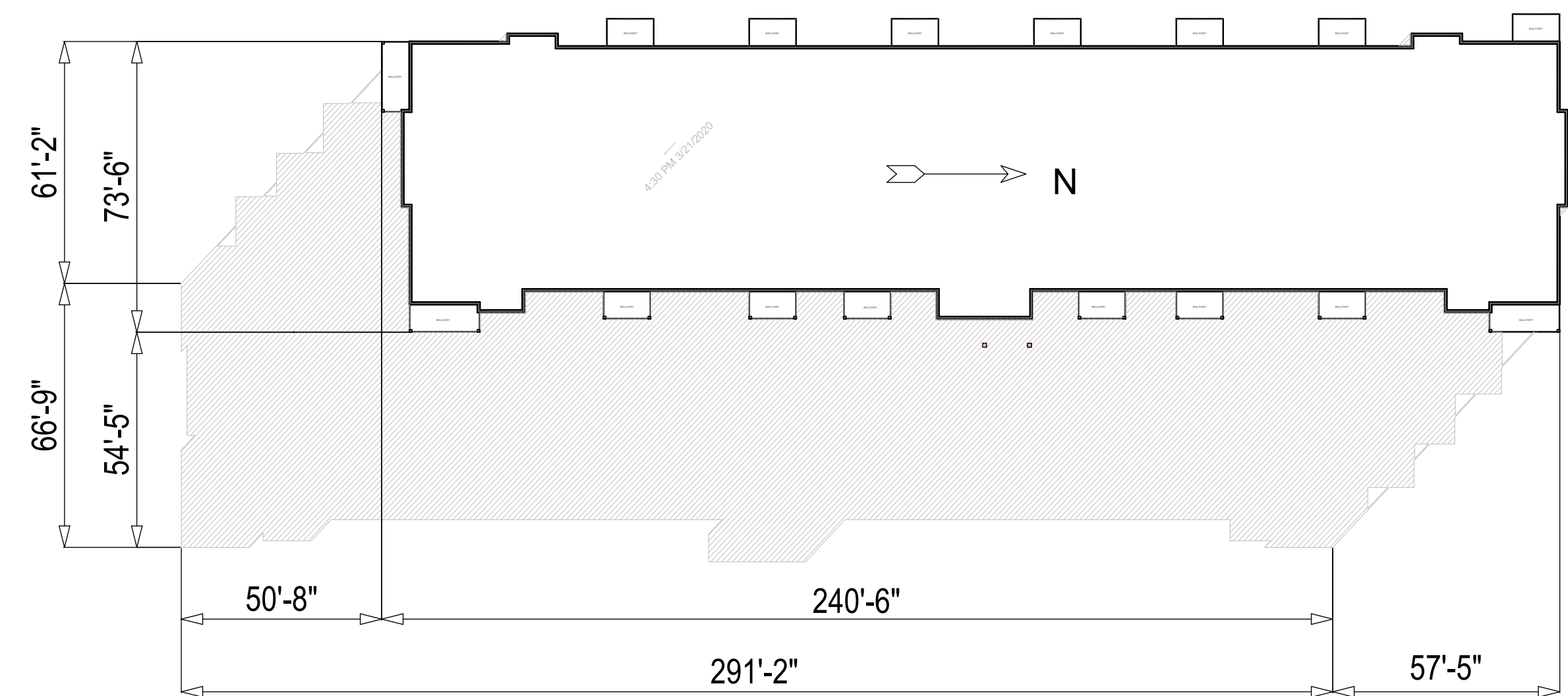
Development Officer Libby Macphail



MARCH 21- 8:30 am
 Mountain Standard Time (MST)



MARCH 21- 12:30 pm
 Mountain Standard Time (MST)



MARCH 21- 4:30 pm
 Mountain Standard Time (MST)



Luso
 International
 Design
 Inc.

Sturgeon County,
 Alberta, Canada
 780.965.8548
 lusodesigns@hotmail.com

NEW PROJECT FOR:
**JAM (2016) INVESTMENTS
 INC.**

EMAIL: lusodesigns@hotmail.com
 PHONE: (780) 965-8548

PAGE TITLE
Shadow Cast Models
 RESIDENTIAL BUILDING
 LOT17, BLOCK 80, PLAN 4462

DRAWN BY:
 JOE M.

DATE:
 7/8/2020

SCALE:
 1/32" = 1'-0"

JOB #:
 TWIN PINE
 HILLS

SHEET #:

CS-101

City of Yellowknife

Development Permit # PL-2019-0168

Approved August 11, 2020

Development Officer Libby Macphail



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Design
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Alberta, Canada
780.965.8548
lusodesigns@hotmail.com

NEW PROJECT FOR:
**JAM (2016) INVESTMENTS
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EMAIL: lusodesigns@hotmail.com
PHONE: (780) 965-8548

PAGE TITLE
Shadow Cast Models
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LOT17, BLOCK 80, PLAN 4462

DRAWN BY:
JOE M.

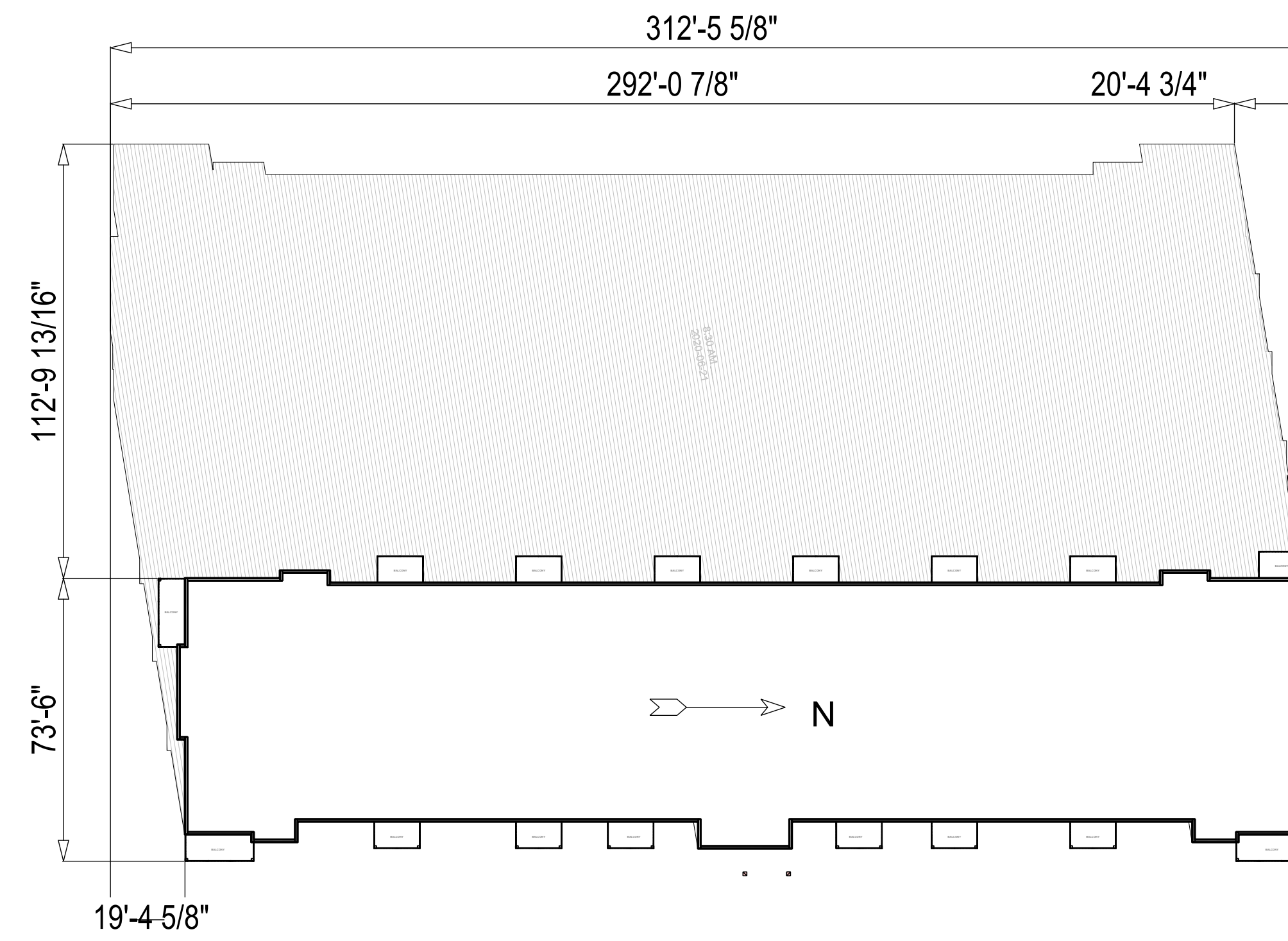
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7/8/2020

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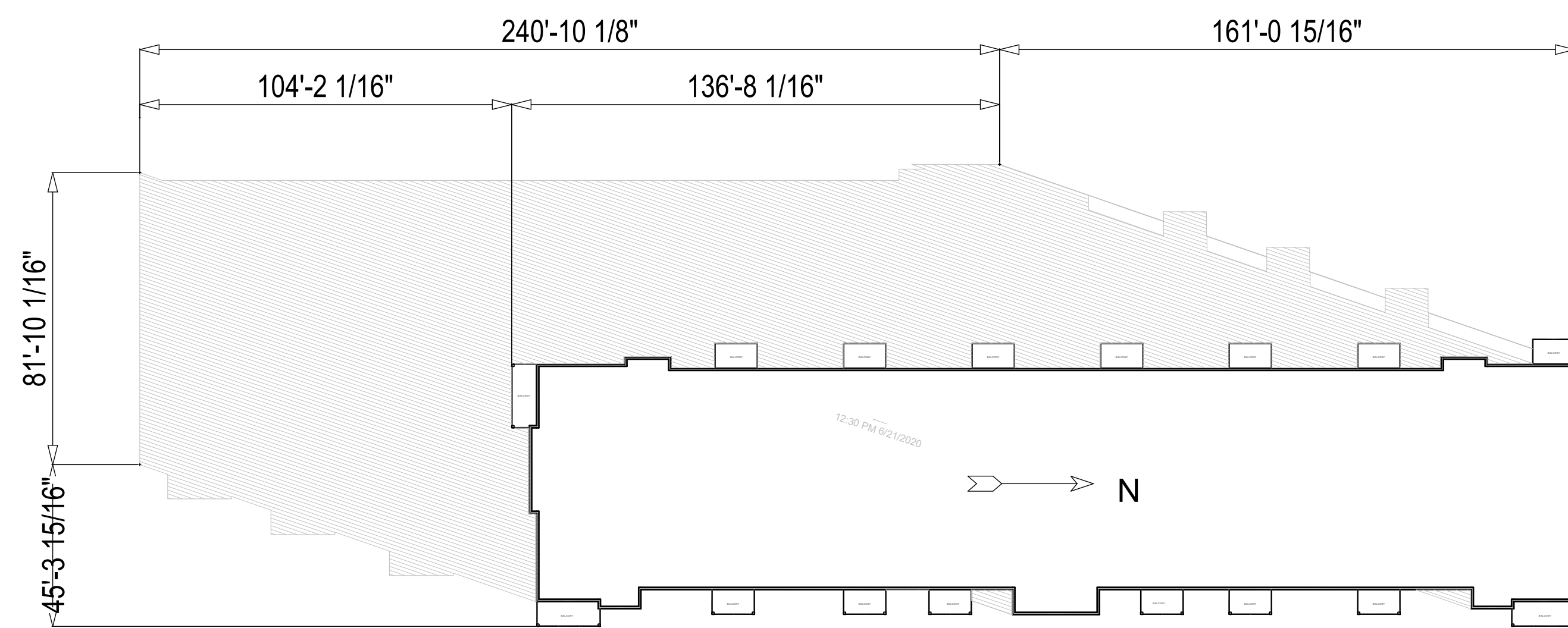
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TWIN PINE
HILLS

SHEET #:

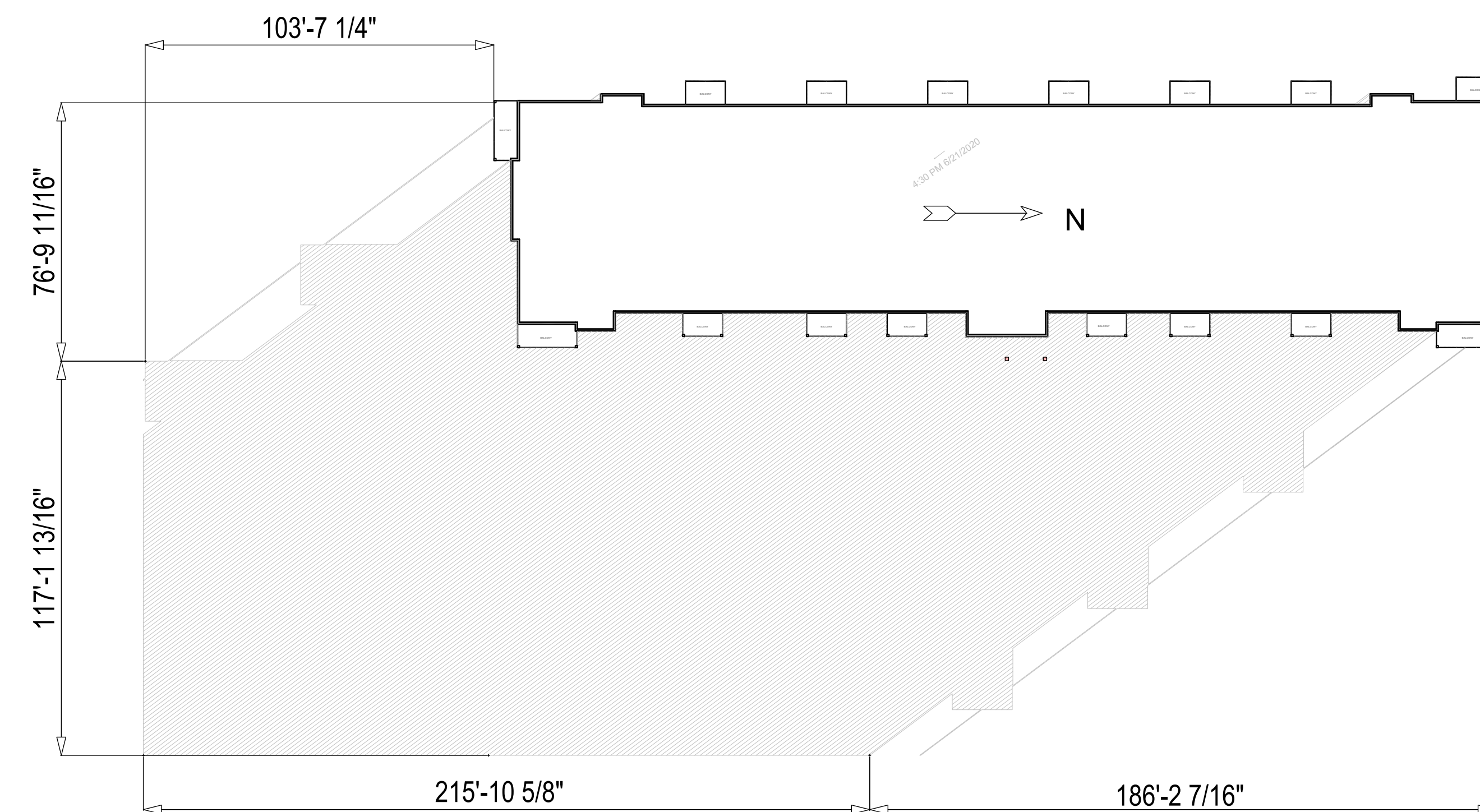
CS-102



JUNE 21- 8:30 am
Mountain Standard Time (MST)



JUNE 21- 12:30 pm
Mountain Standard Time (MST)



JUNE 21- 4:30 pm
Mountain Standard Time (MST)

City of Yellowknife

Development Permit # PL-2019-0168

Approved August 11, 2020

Development Officer Libby Macphail



Luso
International
Design
Inc.

Sturgeon County,
Alberta, Canada
780.965.8548
lusodesigns@hotmail.com

NEW PROJECT FOR:
**JAM (2016) INVESTMENTS
INC.**

EMAIL: lusodesigns@hotmail.com
PHONE: (780) 965-8548

PAGE TITLE
Shadow Cast Models
RESIDENTIAL BUILDING
LOT17, BLOCK 80, PLAN 4462

DRAWN BY:
JOE M.

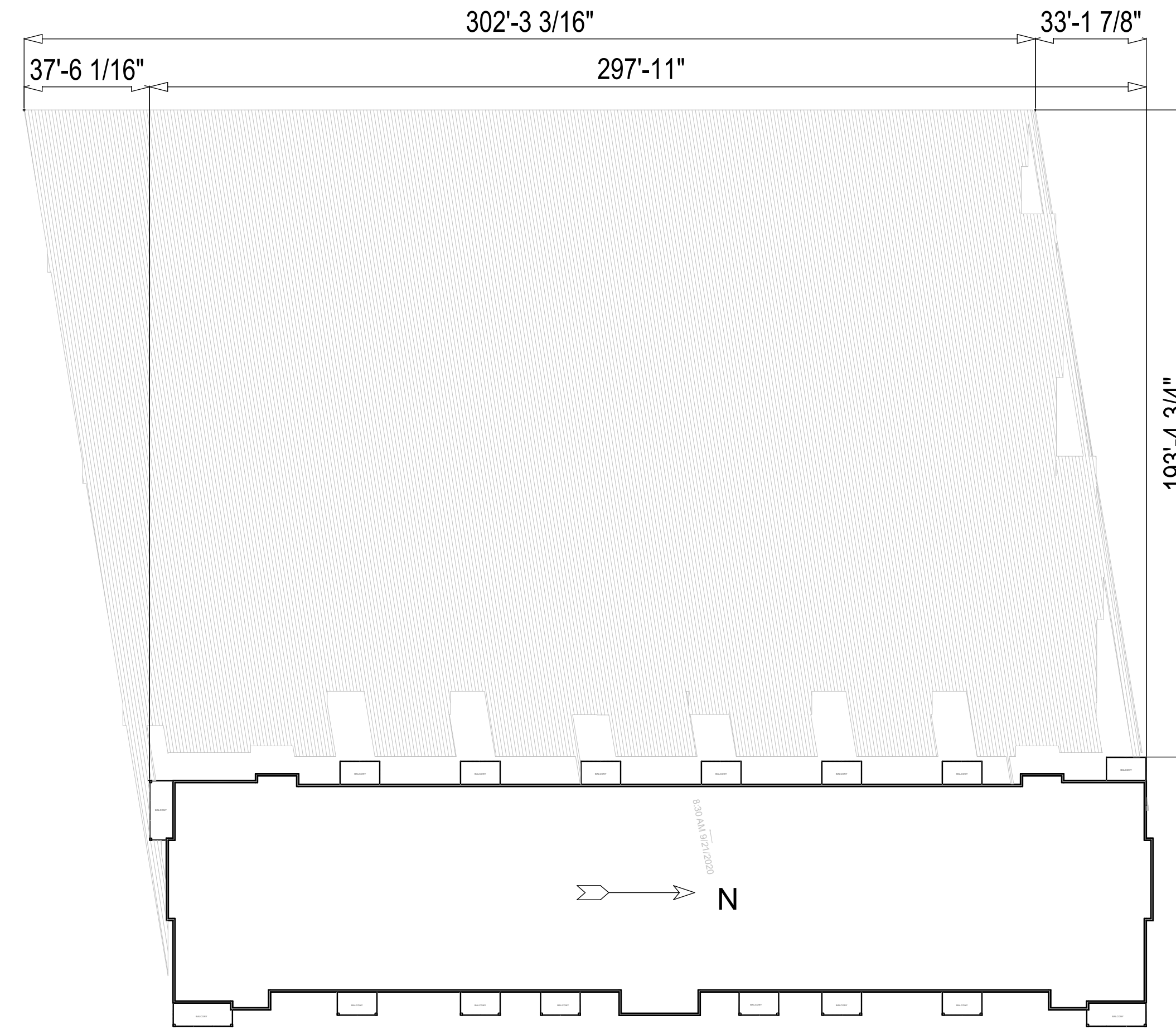
DATE:
7/8/2020

SCALE:
1/32" = 1'-0"

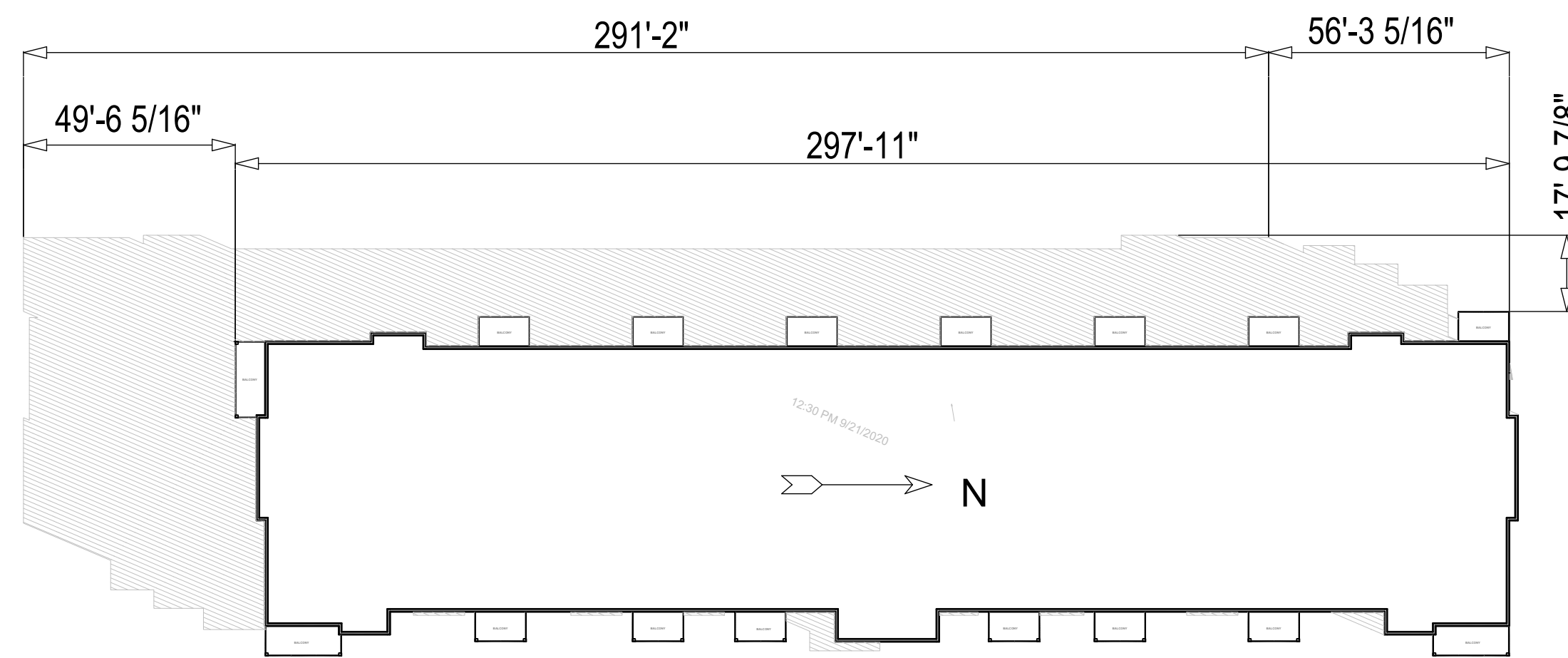
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**TWIN PINE
HILLS**

SHEET #:

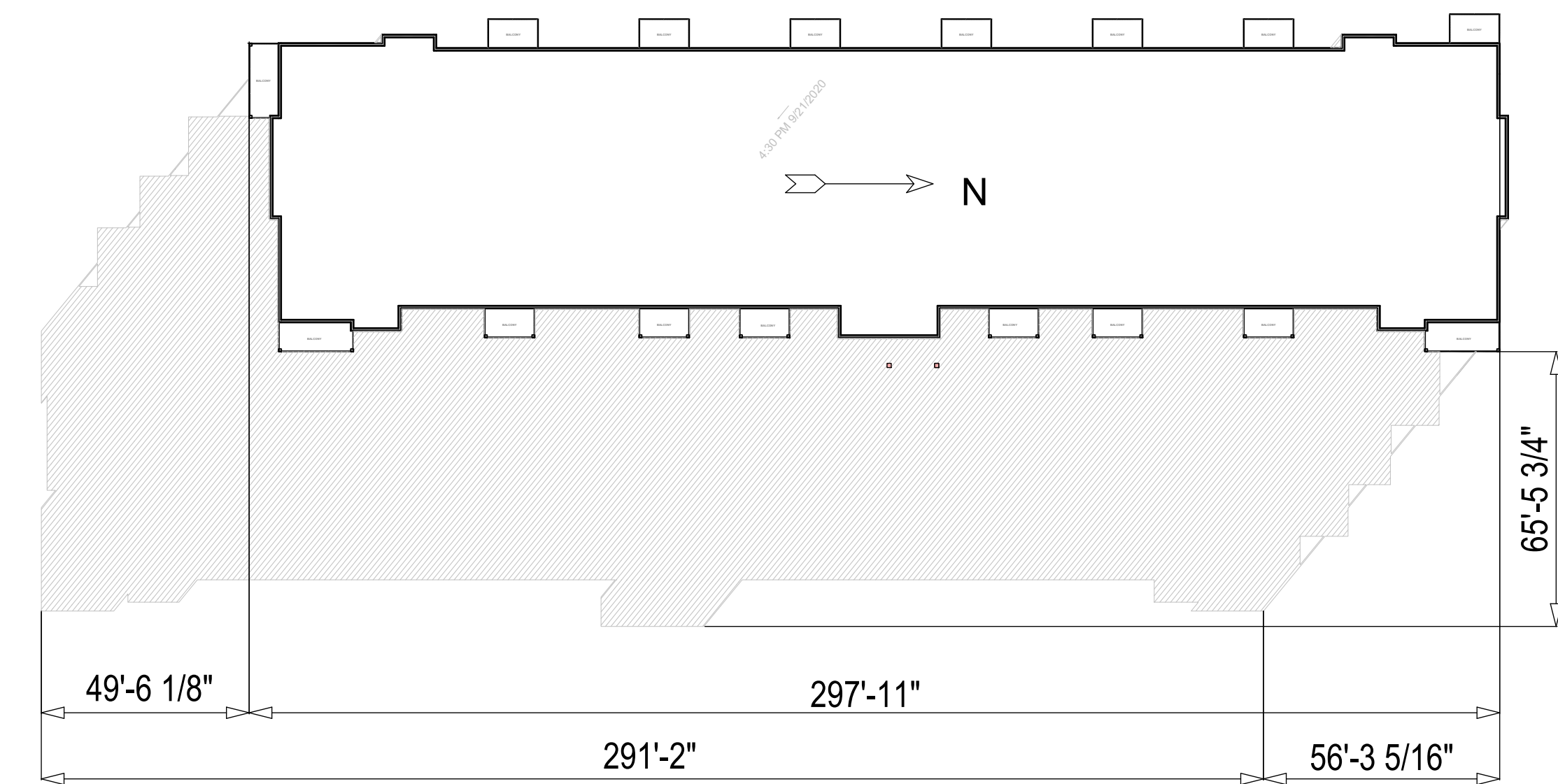
CS-103



**SEPTEMBER 21- 8:30 am
Mountain Standard Time (MST)**



**SEPTEMBER 21- 12:30 pm
Mountain Standard Time (MST)**



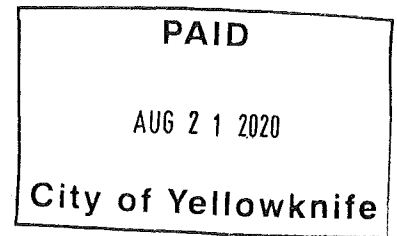
**SEPTEMBER 21- 4:30 pm
Mountain Standard Time (MST)**

APPENDIX L:
Appellant Letters

AUG 21 2020

Received

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
4807 - 52 Street
P.O. Box 580
Yellowknife, NT X1A 2N4



August 20, 2020

Dear Board Members

Re: Intended Development: Multi-Family Dwelling Lot 17 Block 80, Plan 4462

I am appealing the decision of City of Yellowknife Development Officer to approve a Multi-Family Dwelling and a varied development of the Zoning By-law 4404 at 4024 School Draw as described in Development Permit PL-2019-0168. I am opposed to the decision of the Development Officer and argue that the proposed four-story, 65 unit apartment complex on School Draw Avenue would substantially interfere with the current use, enjoyment and Old Town character of nearby neighbourhoods.

I am a home owner in Willow Flats adjacent to the School Draw area. I believe this new development will adversely affect the Old Town neighbourhood where I have chosen to live for the past three decades. The quiet, residential area of Willow Flats is an enjoyable and peaceful part of the City that I appreciate, respect and value. The human and natural history and cultural heritage of the Old Town needs to be recognized and protected. This includes public access to nature trails and promotion of the heritage value of historic buildings, businesses and places. A high-density apartment complex on School Draw is incompatible with the uniqueness of the adjacent Old Town locale.

Clearly, the sheer size and height of the building does not conform with the Old Town Mixed use defined by current by-laws linked with the (2011) City of Yellowknife General plan. The approval of a 45.8% height variance to build four stories from an allowable height of three stories, far exceeds what is acceptable in the current Old Town Mixed zoning plans.

I am strongly opposed to the sheer size of the building and increased density of people this will create as a result of this development. I believe this increase will adversely impact the distinctive character of Old Town neighbourhoods of School Draw, Peace River Flats and Willow Flats with associated increases in parking congestion, traffic, noise, and light. These impacts will unquestionably detract from the current peaceful environs and beauty of Twin Pine Hill and Rotary Park which are areas defined by trails and nature, enjoyed by all residents. The distinct character of Old Town is linked to a unique physical environment, history and heritage and is

worth protecting from a development such as the proposed massive apartment complex development.

I believe the City of Yellowknife Development Office and other officials including the Mayor, Council and Administration have gravely erred in their judgement and decision to accept that an apartment dwelling with 65 units is a "similar use" to permitted uses for the area such as townhouses. Multi-family buildings are unmistakably not at all similar in nature to multi-attached dwellings. They are obviously different in size, structure, massing and density. The zoning by-law does not allow apartment buildings as a permitted nor conditionally permitted use of the Old Town Mixed Use zone.

For the reasons described above, I am submitting this letter of appeal to the Development Appeal Board. In sum, I believe the Council Motion # 0074-20 "That Council approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as "Similar Use" to that of a Multi-Attached Dwelling at Lot 17 Block 80 (former Bartam site – 4024 School Draw Avenue) will adversely affect the adjacent Old Town neighbourhoods and is in contravention of the current zoning By-law 4404.

Sincerely

Barb Cameron
Bryson Drive
Yellowknife
X1A 1Z9

Debbie Gillard

From: Dave Jones
Sent: August 24, 2020 12:25 PM
To: Debbie Gillard
Subject: RE: Appeal of Development Permit No. PL 2019-0168 - Lot 17, Block 80

Thanks Debbie – and right – forgot there is another dgillard
Regards
Dave

From: Debbie Gillard [mailto:debbie.gillard@yellowknife.ca]
Sent: Monday, August 24, 2020 11:35 AM
To: Dave Jones
Subject: FW: Appeal of Development Permit No. PL 2019-0168 - Lot 17, Block 80

Hi Dave,

Payment can be made over the phone 920-5600, or in person at City Hall between the hours of 11:00 a.m. and 2:00 p.m. Payment is required in order to file the appeal, therefore please note the deadline is tomorrow, August 25, 2020 at 4:30 p.m.

Also, please note that my email address is debbie.gillard@yellowknife.ca, (dgillard does not come to me).

Thank you,

Debbie Gillard

City Clerk
City of Yellowknife
T: 867.920.5646
F: 867.920.5649
yellowknife.ca



IMPORTANT NOTICE: This message is intended only for the use of the individual or entity to which it is addressed. The message may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by email and delete the contents of the communication. Thank you. Please consider the environment before printing this e-mail and/or attachments.

August 24, 2020

Attn: Debbie Gillard
City Clerk's Office

Please accept this letter of notification to request appeal to the Yellowknife Development Appeal Board of Development Permit No. PL 2019-0168 (Lot 17, Block 80).

The basis for appeal of the noted development permit is that there has been a misapplication of the provisions of Zoning By-law No. 4404 as it applies to both the use of the property and the variations

provided for the development. Members of our association are affected by the scale and density of the proposed development.

Please confirm receipt of this email and advise whether payment of \$25.00 to undertake the appeal may be completed on line, by phone, or in person at City Hall.

Regards
Dave Jones
Executive Member
Back Bay Community Association

August 24, 2020

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
4807 52 Street
PO Box 580
Yellowknife, NT X1A 2N4

Appeal Re: Approval of Development Permit Application No. PL-2019-0168 for a proposed development on Lot 17 Block 80 Plan 4462.

As residents directly affected by the above-noted approval, we appeal based upon:

1. We, as well as others in Yellowknife, will be adversely affected by the development, as approved. Specifically,
 - a. The approved development will increase the immediate neighbourhood from six single-family houses to include a monolithic and overwhelming 65-unit apartment building requiring a 45.8% variance that will, amongst other things:
 - i. Create off-site parking issues and traffic congestion.
 - ii. Completely alter the visual landscape of the neighbourhood through the blocking of the rock outcrop, a hallmark of the Yellowknife landscape.
2. There was a misapplication of the zoning by-law.
 - a. Specifically, By-law 4404 does not permit multi-family structures within the zone and there is no legitimate *Similar Use* comparator within the zone;
3. The proposed development contravenes By-law 4404;
 - a. Although the City has recently received Ministerial approval for and adopted a new general plan, application of that plan is dependent upon change to zoning by-law 4404, change has not yet been introduced for public discussion. Approving a non-conforming development at this stage simply ignores the existing by-law and presumes an unknown outcome.
4. The development permit has been approved based upon the discretion of the planning officer.
 - a. The planner has indicated, with no supporting documentation, that it is *"the opinion of the Development Officer that an increase in height would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land."*

5. The development has been approved on the basis of *Similar Use* based on either a multi-attached or a single non-conforming 3-unit multi-family structure within the zone.
 - a. The existing by-law does not permit multi-family dwellings within the zone and the application of *Similar Use* is incorrect.

6. The development has been approved under circumstances where the proposed development does not conform with the existing by-law.
 - a. As stated above, the approval is based upon a faulty *Similar Use* argument.

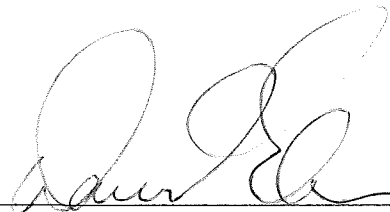
It is requested that the Development Appeal Board revoke the development permit approval, as submitted, and require that further application comply with the by-laws in force at the time of application.

We understand that health safety concerns raised by the COVID-19 issue create hearing logistics issues. Acknowledging that prudent practices are called for in the age of the COVID-19 virus, we respectfully request that the Appeal Board hearing be conducted in person in a suitable sized facility permitting appropriate distancing. A hearing of this importance for the future of a Yellowknife neighbourhood should be held in person and not by using the unfamiliar and intimidating web-casting system that has become common for routine business.

Respectfully,



Pamela Dunbar



David Gilday

City of Yellowknife

AUG 25 2020

Received

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
4807 – 52 St, (City hall)
P.O. Box 580
Yellowknife, NT X1A 2N4

Marjorie Matheson-Maund
Gary Maund
Bryson Drive
Yellowknife, NT X1A2A1

By Email:

August 24, 2020

Dear Development Appeal Board Members,

**Re: Appeal of PL-2019-0168 Proposed Apartment Building /Development Lot 17
Block 80 Old Bartam Trailer Park**

Please accept this appeal on the development permit PL-2019-0168 65 Unit Apartment Building. We are eligible to appeal because the development would directly affect us as described below.

We believe City Council made an error in declaring the proposed use to be a "similar use" to conditionally permitted uses in zoning by law No. 4404 and we would encourage the Development Appeal Board Members to carefully consider our concerns.

My husband and I are seniors and have been residents of Yellowknife since 1978, we purchased our home in Willow flats in 1992. We are writing this letter to you to express our concern and opposition of the proposed construction of a 65 unit multi-family dwelling on the site of the former Bartam Trailer Park. We are requesting that the Development Appeal Board Members do not approve the proposed development on this site as the proposed development does not meet the vision of the Old Town Development plan, does not meet OM zoning bylaw 4404 Section 10.18 and does not take in to consideration the City of Yellowknife 2011 General Plan Section 4.2.1.

We feel it was unreasonable for council to conditionally permit such a large (65 Unit) building at this location because an extremely large apartment building is not a "similar use" to the permitted uses for the area. It is not similar in nature to them. It is different from multi-attached dwellings in size, style, density and shape and form from row housing, and

townhouses. The building does not reflect the character of the Old Town and would further alter the beauty of the Twin Pine Hill. Permitting the development would not follow the City of Yellowknife's principles in the general plan update. We believe that Council is not respecting the City of Yellowknife's current by-law, which is designed to protect the character of the Old Town.

The proposed development contains 65 Units which is more households than all of Willow Flats. It is also more households than all of Peace River Flats. Allowing 65 more households in the area will most likely double the traffic in what is now a peaceful area, and impact the safety of our roads and walkways. This will directly affect the quality of life for our family and grandchildren.

We also urge the Development Appeal Board Members to review the history of why the city of Yellowknife decided to purchase Bartam Trailer Park, the displacement of residents at that time, the subsequent acquisition of the land by the developer and promises regarding housing for specifically for seniors. Please note we are not opposed to development in the area but feel that the design and scope should reflect the character of the Old Town and respect the permitted uses in the by-law, which are chosen to protect the character of the Old Town.

We are also concerned that the proposed 65 unit apartment building (including parking spaces and associated light and noise pollution) could have a negative impact on the wetlands located across the street from the proposed site. Each spring many birds use this area as it is one of the first areas in the city to have open water on the migration path north...and south in the fall. Has an environmental assessment been considered on the possible negative impact on migratory birds if the proposed housing project is approved?

We request that the Development Appeal Board does not allow for the variance in height. A very tall, large four-story apartment building with 65 Units will drastically alter the character of the old town and impact the quality of life for residents Willow Flats. We encourage the Development Appeal Board to come down to the old town, walk around both Peace River and Willow Flats, visit Rotary park and walk on the boardwalk to sit by the Great Slake Lake...then look over to site of the proposed very tall 65 Unit apartment complex and then imagine the negative impacts on families who are currently residing in the area.

Sincerely,



Gary Maund
Marjorie Matheson-Maund
Bryson Drive
Yellowknife, NT. X1A2A1

CITY OF YELLOWKNIFE – DEVELOPMENT APPEAL BOARD

Development: Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue)

File Number: PL-2019-0168

Date of Decision under Appeal: August 11, 2020 by Council Motion #0074-20

Appellant: Yellowknife Community Garden Collective

NOTICE OF APPEAL

by the **Yellowknife Community Garden Collective**

Decision Under Appeal

1. On August 11, 2020, a variance for Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue) (“**the Proposed Development**”) was approved (“**the Decision**”).
2. Pursuant to the Decision, the maximum height of the Proposed Development has been increased from 10.0m to 14.58m (45.8% variance) (“**the Variance**”). This allows the developer to add an additional floor to the proposed multi-family dwelling.
3. Pursuant to Yellowknife City Council Motion #0074-20, the Decision was communicated as follows : “That Council approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (former Bartram site – 4024 School Draw Avenue)”.

Eligibility of Appellant

4. The Appellant, the Yellowknife Community Garden Collective (“**YCGC**”) is a non-profit organization registered under the *Societies Act* of the NWT and is currently in good standing.
5. The YCGC holds a lease with the City of Yellowknife for Lot 13, Block 78, Plan 4059, which is adjacent to the Proposed Development. The leased land is used as one of YCGC’s community gardens, specifically, the Old Town Garden. There are 17 garden plots at the Old Town Garden, and a total of 40 individual gardeners assigned to plots there.
6. The approval of the height variance for the Proposed Development will adversely affect YCGC members assigned to the Old Town Community Garden by creating shade on the

garden plots and thereby reducing the productivity of the Old Town Garden. Because the YCGC will be adversely affected by the Decision, the YCGC has standing and is eligible to file this appeal pursuant to s. 62(1) and 65(2) of the *Community Planning and Development Act*, S.N.W.T. 2011, c. 22, as amended (“**the Act**”).

7. Furthermore, because the Proposed Development and Variance were approved as a similar use, section 62(1)(d) of the Act is engaged and the threshold requirement under section 62(1) for bringing an appeal has been satisfied.
8. There is also a public interest aspect to this appeal. Under the YCGC’s bylaws, YCGC members are required to donate 25% of their produce to local charitable organizations who provide food to vulnerable populations in the City of Yellowknife. Therefore, any adverse effect on YCGC members in relation to the Proposed Development would also have an adverse effect on the public interest in food security.

Reasons for Appeal

9. According to Schedule 1 of the Zoning By-Law No. 4404, as amended, the Proposed Development is in an area zoned as “OM”, or Old Town Mixed Use.
10. The Permitted Uses of land zoned OM are: accessory decks, commercial use, office, single detached dwelling, duplex dwelling, mixed use, child care facility, multi-attached dwelling, planned development, home based business, temporary activities, and accessory structures and uses (section 10.18(2)(a) of Zoning By-Law No. 4404, as amended).
11. The Conditionally Permitted Uses of land zoned OM are: diamond facility, food/beverage service, hotel, industrial use, motel, lake use, parks and recreation, public and quasi-public uses, public utility uses and structures, special care facility, and similar use (section 10.18(2)(b) of Zoning By-Law No. 4404, as amended).
12. The Proposed Development is classified as a Multi-Family Dwelling, which is not a Permitted Use or a Conditionally Permitted Use of land zoned OM.
13. Yellowknife City Council conditionally permitted the Proposed Development and the Variance as a Similar Use to that of a Multi-Attached Dwelling, on the basis that similar uses can be conditionally approved, that Multi-Attached Dwellings are a permitted use in zone OM, and that a Multi-Family Dwelling is similar to a Multi-Attached Dwelling.
14. Therefore, the primary ground for this appeal is that the application for the development permit has been approved on the basis that the specific use of land or the building was similar in character and purpose to another use that was included in a zoning bylaw for that zone, pursuant to section 62(1)(d) of the Act.

15. The YCGC submits that the intended use of the Proposed Development as a Multi-Family Dwelling is not a similar use to a Multi-Attached Dwelling. In the Zoning By-Law No. 4404, as amended, a Multi-Attached Dwelling (the permitted use in zone OM) requires that each unit have separate access to ground level – i.e., three or more separate attached units that are side by side, not one on top of the other. A Multi-Family Dwelling uses shared entrance facilities. A Multi-Family Dwelling therefore permits for separate units on top of each other on different floors of the building, whereas a Multi-attached Dwelling does not. A Multi-Family Dwelling can therefore be of higher density and many more vertical floors than a Multi-Attached Dwelling. These are not similar uses.
16. Because a Multi-Family Dwelling cannot reasonably be classified as a similar use to a Multi-Attached Dwelling, the YCGC submits that the approval of the Proposed Development and Variance represents a misapplication of a zoning bylaw pursuant to section 62(1)(a) of the Act.
17. In the alternative, the approval represents circumstances where the Proposed Development does not fully conform with a zoning bylaw, pursuant to section 62(1)(e) of the Act, and / or the Proposed Development contravenes a zoning bylaw, pursuant to section 62(1)(b) of the Act.
18. For all of the reasons above, the YCGC submits that the Yellowknife City Council did not have the authority to approve the Proposed Development and the Variance without an amendment to the zoning bylaw.

Relief Sought

19. The YCGC submits that the Decision to approve the Variance for the Proposed Development be quashed.

20. In the alternative, the YCGC requests that the Development Appeal Board order that the approval of the Variance be made conditional on the developer engaging in a shade study showing the degree to which the Proposed Development, with and without the Variance, creates shade on the land leased by the YCGC. The shade study should be done by an independent contractor with the appropriate expertise and paid for by the developer. If the shade study shows that the Variance will create shade on the YCGC leased land, the approval of the Variance should be quashed, or in the alternative, the developer should be ordered to otherwise amend the site plan for the Proposed Development so that no shade is created on the lands leased by the YCGC.

Dated August 24th, 2020, and submitted to the Development Appeal Board by Caihla MacCuish,
Chair of the Yellowknife Community Garden Collective



Caihla MacCuish
Chair, Yellowknife Community
Garden Collective

City of Yellowknife

AUG 25 2020

Received

August 25, 2020

Cathy Cudmore

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
4807 – 52 Street, (City Hall)
P.O. Box 580, Yellowknife, NT X1A 2N4

Attention: Debbie Gillard

Dear Debbie:

Re: Notice of Appeal of the Development Permit #PL-2019-0168

This letter constitutes the written Notice of Appeal of the Development Permit #PL-2019-0168 Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue) (the "Development Permit") issued on August 11, 2020, granting a variance to permit a 45.8% height increase, and approving the conditionally permitted use for the establishment of a multi-family dwelling as a "similar use" to that of a multi-attached dwelling.

Facts

Council Motion #0074-20 on May 11, 2020 approved a Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as Similar use to that of a Multi-Attached Dwelling on Lot 17 Block 80.

The Development Permit was issued August 11, 2020 based on Council's decision and the permit included a height variance of 45.8%.

Grounds of Appeal

1. I am a person adversely affected by the Development Permit.

I live in the closest residential house to the proposed development. My property is located at Lundquist Road, approximately 60 meters from the proposed development.

I have also received letters from the City of Yellowknife, dated April 17, 2020, in regards to Council's proposed decision to approve a Conditionally Permitted Use and August 11, 2020 indicating I am affected by a Development Officer approval of a multi-family dwelling as conditional use with a variance of maximum height of 45%.

I wrote to City Council expressing my views on April 23, 2020, and made a presentation to the Priorities and Planning Committee on May 5, 2020, concerning the development which is the subject of the Development Permit.

2. Deeming a multi-family dwelling to be a similar use to a multi-attached dwelling is a misapplication of By-Law 4404.

Multi-Family Dwellings and Multi-Attached Dwellings are not similar use.

Pursuant to the definitions in By-Law 4404, multi-attached is defined as a residential building containing three or more dwelling units side by side or stacked each having a separate access to ground level. Multi-family is defined as a building containing three or more dwelling units with shared entrance facilities. Council approved the proposed development stating that a multi-family development is the same in character or purpose to a multi-attached development. There are significant differences in these two types of dwellings. They are not the same in character or purpose.

The “similar use” clause is to be used when not every situation can be contemplated, as per page 254 of “Municipalities and Canadian Law: Defining the Authority of Local Governments”.

3. The variance permitting a 45.8% height increase and permitting the development of a multi-family dwelling is a contravention of By-Law 4404 and the Community Plan.

Contravention of By-Law 4404

By-Law 4404, which is yet to be amended to comply with the Community Plan, places the lot in question in the Old Town Mixed zone. By-Law 4404 makes specific mention of the preservation of the character of Old Town and contemplates development where the design, character, and appearance is comparable with and complimentary to the surrounding properties. There are no other high-density modern apartment style buildings in Old Town. The Development Permit does not comply with the spirit or intention of By-Law 4404 to preserve the unique character of Old Town.

By-Law 4404 s 10.18 Old Town Mix refers to multi-attached dwellings and buildings must be developed in accordance with the by-laws. By-Law 4404 at section 10.18 (5) (a) states:

Notwithstanding the minimum requirements of this zone, single detached, duplex and multi-attached dwellings shall be developed in accordance with the provisions of s. 10.8.

Section 10.8 indicates that the general purpose is:

To provide an area for low density residential development in the form of single detached and duplex dwellings and compatible uses as herein listed.

Only multi-attached dwellings are listed as a conditionally permitted use.

In addition, section 7.3(1) of By-Law 4404 sets out the “essential components” for multi-attached and multi-family dwellings. The following are the essential components:

- a) access for emergency vehicles;
- b) access to enclosed garbage storage;
- c) fencing, if required by the Development Officer;
- d) light between buildings;
- e) pedestrian access to and from the public sidewalk serving the building; and
- f) flood lighting and parking light standards sufficient to provide for safety and security and that have a minimal impact to adjacent residential development.

The proposed development does not meet the essential components under s.7.3(1) because the proposed development does not have pedestrian access to and from the public sidewalk serving the building. There is currently no sidewalk in front of the proposed development and the development does not show any plan to build a sidewalk. Further, the proposed development does not demonstrate any planned parking or outdoor safety lighting developed to minimally impact to adjacent residential developments as required.

Variations can only be permitted pursuant s. 3.5 of By-Law 4404 if the variance would not unduly interfere with the amenities of the neighborhood, or materially interfere with or affect the use, enjoyment or value of neighboring properties.

This variance will impact me and will materially affect my use enjoyment and property value. I moved to this neighborhood because it was in Old Town. The street was a small quiet street and had small unique residences. This Development Permit allows for a variance to develop a very large structure to house many new residents. The proposed development is a high-density development which will materially increase noise, traffic, parking issues and the impact on the area parks. Increased pedestrian and vehicle traffic, as well as windows and balconies with a view of my house and deck will reduce my privacy. Further, the building will cover a significant rock outcrop that is a major feature in the City of Yellowknife. If the Development Permit is not revoked, when I look out of my living room window or sit on my deck I will see a large building instead of the natural rock which is a distinct feature of the Yellowknife landscape.

The close proximity of the proposed development to my house takes away the main feature of my location, which is a small quiet street with six houses and will result in a loss of property value. Adding 65 units to a neighborhood with six houses is substantial. A development such as this results in location obsolescence.

Contravention of the Community Plan

The Development Permit also contravenes the Community Plan. The newly adopted 2019 Community Plan proposes including the lot in a zone called “Downtown Central Residential”. The Community Plan at section 4.1.2 describes the Downtown Central Residential zone as:

“... a transition area between the high density City Core and other area designations like Old Town”

Policy 3.a of the Community Plan states that By-Law 4404 will be revised to allow for higher density re-development in the City Core stepping down to medium density zoning further from the City Core.

Pursuant to By-Law 4404, which is yet to be amended, a multi-attached dwelling is described as medium density while a multi-family dwelling is described as a high density use.

Relief Sought

I ask that the Appeal be granted and that the Development Appeal Board:

- 1) Revoke the Development Permit; or
- 2) In the alternative, impose conditions that the proposed development be revised to comply with the current requirements of By-Law 4404.

Please find enclosed the required \$25.00 filing fee.

Respectfully Submitted,



Cathy Cudmore
Lundquist Rd.
Yellowknife, NT X1A 3G2

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
P.O. Box 580
Yellowknife, NT X1A 2N4

City of Yellowknife

AUG 25 2020

Received

August 24, 2020

Re: Intended Development: Multi-Family Dwelling Lot 17 Block 80, Plan 4462

I am appealing the decision of City of Yellowknife Development Officer to approve a Multi-Family Dwelling and a varied development of the Zoning By-law 4404 at 4024 School Draw as described in Development Permit PL-2019-0168.

I moved to Yellowknife in 1990 and lived in the Bartam trailer court in its' finally days. I am now a home owner at Lundquist Road and also own a home at 41 Street, which is also in the 100 m radius of this proposed development. I received letters from the City in regards to both the Conditional Permitted Use (dated April 17 2020) and one dated August 11 re Approval of Multi-Family dwelling with height variance. I listened into the Government, Priorities and Planning meeting on May 4 as well as the City Council Meeting on May 11.

I believe there was a misapplication of the "similar use" clause in the zoning bylaws in the approval of the application. Close reading of the Memorandum to Council (May 11, 2020) leads me to this conclusion.

I believe the proposed development contravenes the zoning bylaw as well as the Community Plan 2011 and the Community Plan 2019. I don't feel the intent of either Community Plans was for a development of this size to take place in this area. Several bylaws about Old Town Mix have also been contravened.

I am further concerned that this development is a bad precedent for the City and undermines public faith in this city's planning department and its governing capabilities.

In conclusion, I wish to present my argument to the Development Appeal Board as I am adversely affected by this development.

Sincerely,



Ann Lynagh
Lundquist Rd
Yellowknife NT X1A3G2

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
4807 – 52 Street, (City Hall)
P.O. Box 580,
Yellowknife, NT X1A 2N4

Alan and Miki Ehrlich
Bryson Drive
Yellowknife, NT X1A 2A1

August 24, 2020

Dear Development Appeal Board Members,

Re: Appeal of PL-2019-0168 Proposed Apartment Building

Please accept this appeal of the development permit PL-2019-0168 (65 unit apartment complex on School Draw Ave. at the Bartam Court site in Old Town). With respect to our eligibility to appeal, we live near the development and will be directly affected by it.

We believe that City Council made an error in declaring the proposed use to be a “similar use” to the conditionally permitted uses in zoning by law No. 4404.

It was unreasonable for Council to conditionally permit this huge building at this site, because:

- 1. An apartment building is not a “similar use” to the permitted uses for the area. It is not “similar in nature” to them. It is really different from “multi-attached dwellings” in size, density, style, and massing (shape and form) from townhouses or rowhouses.**
- 2. It would clash with the setting and surrounding buildings along School Draw Ave.**
- 3. Council is obligated to respect the spirit of the City of Yellowknife’s current by-law, which is designed to protect the character of Old Town.**
- 4. Permitting this would contradict the City of Yellowknife’s own published principles in the general plan update.**
- 5. This development would further diminish the beauty of Twin Pine Hill.**

The reasons for each of these conclusions are as follows:

- 1. This is not “similar in nature” to a permitted or conditionally permitted use**

The zoning by-law¹ does not include apartment buildings as a permitted nor conditionally permitted use of the Old Town Mixed Use zone. The conditionally permitted uses list does include “similar use”, which is defined in the by-law to mean “similar in nature”.² This refers to uses that are similar in nature to the permitted uses. The only permitted use that is remotely similar would be a “multi-attached dwelling subject Section to 10.18(5)(a)”, which refers to townhouses.

A large apartment building is very different from a row of townhouses. They look different and feel different. Townhouses look like individual houses, and often have their own greenspace and ground floor entrances. In shape and form, they would fit in better with surrounding houses than a large apartment building would. **Townhouses also have much lower density.** The proposed 65 units is drastically different from the number of townhouse units the site would likely contain. This also changes how they feel, and their infrastructure needs (including parking, traffic, noise, lighting and sewerage), and how they interact with the surrounding neighbourhood.

None of the types of developments that are listed as “similar uses” in the by-law have this density. **Density matters because the development will roughly double the density of this area.** Sixty-five new units is more households than there are in all of Willow Flats. It is also more households than all of Peace River Flats. The area, including School Draw Ave., will presumably be twice as busy, twice as noisy, and have twice as much traffic. **This would directly affect us,** our kids and our community as residents of Willow Flats.

2. An apartment building would clash with the surroundings

In the by-law, “similar in nature” means similar to listed uses, but does not mean similar to buildings nearby. We encourage you to reject the argument that city staff have made that the Nova Group’s Slave Lake Inn is the same in nature, because of its’ location. It is on Franklin Ave., the main road, and not along School Draw Ave. Franklin is the approach to downtown from Old Town. It is busier, and becomes more urban as you go up the hill. School Draw is a quiet, scenic winding road between the lake and the shield. **The closest structures on School Draw would be absolutely dwarfed by the proposed apartment building,** which at 87m (285 feet) is the length of approximately three blue whales (!) and is almost 50 feet high.

The length is important because it serves as a multiplier of the 15 foot height variance. The resulting building volume is four-hundred and eighty seven thousand cubic feet- comparable to some of the largest apartment buildings downtown. In this deliberation, size matters.

¹ Zoning By-law No. 4404 s.10.18 (p10-65)

² Zoning By-law No. 4404 definitions pI-34

3. The General Plan deserves respect

The current General Plan is a carefully crafted plan based on considerable public input and wise decision making. It identifies the character of Old Town as something worth protecting. It is the heritage of the city. The numbers of tourists who flock to this area likely would agree. **The Development Appeal Board should respect the permitted uses in the by-law, which are chosen to protect the character of Old Town.**

The way Old Town feels depends on how it is developed. A huge apartment on School Draw would drastically change the character of Willow Flats (our neighbourhood) and would be a step in the wrong direction for preserving the distinct character of Old Town. Once that character is lost, you cannot get it back. Losing this would also affect us directly as residents of Old Town.

4. Permitting this would contradict the City of Yellowknife's own published principles.

The City's own materials clearly support these points. In the City's publication on Intensification Compatibility,³ the City's Planning and Development Department emphasizes that "Intensification introduces new development into existing areas and **requires a sensitive approach and consideration of the area's established characteristics**". It speaks of "**ensuring the compatibility of new development with existing community character**".

The same document recommends:

- "New buildings should have regard for the height and massing of adjacent buildings".
- "Proposed development should consider the character of surrounding buildings".

We urge the Development Appeal Board to uphold the City's own published guidance. We recognize that changing the By-Law following the recently revised Community Plan will require more public engagement. We believe this public participation will be important to ensure that residents' views are heard and considered fairly.

5. This development would further diminish the beauty of Twin Pine Hill

The feeling of Old Town depends in part on its surroundings. The rugged northern beauty of Twin Pine Hill is the backdrop for this neighbourhood. The proposed building, seen from School Draw, would be a relatively flat wall, similar in architecture to the Nova Hotel. At 50

³ City of Yellowknife, Planning and Development Department. <https://www.yellowknife.ca/en/doing-business/resources/General%20Plan/3Presentation-Board-Intensification-Compatibility.pdf>

feet high and 285 feet long, the proposed apartment building **would block Willow Flats** and Rotary Park from much of the natural beauty of Twin Pine Hill.

The City, when approving the condos on top of Twin Pine Hill, gave public assurances that it would do everything it can to protect the character of this natural gem inside the city. **Because of it's size and shape, the proposed apartment building would diminish Twin Pine Hill significantly more** than the listed permitted uses.

Relief sought: We urge the Development Appeal Board not to allow the variance in height. If the developer were to build actual townhouses (the "multi-attached dwelling subject Section to 10.18(5)(a)" of the by-law) without varying the requirements of the Zoning By-Law, that would better fit the location and would be a much less drastic change to density of the area in and around Willow Flats. We would likely support such a development on the site.

In conclusion, we hope that you carefully consider each of the above points. To summarize, a large apartment building does not fit with the character of Old Town and is not "similar in nature" to townhouses (multi-attached dwellings). They look different, they feel different, have very different densities, and interact differently with the surrounding neighbourhood. The large variance in height (of almost 50%) that would be required is evidence of how dis-similar this development is to the rest of Old Town. There are clear reasons not to allow this variance. Bartam Court is the wrong site for a large apartment building.

Thank you,

The image shows two handwritten signatures in black ink. The signature on the left is more stylized and appears to be 'Alan', while the signature on the right is more legible and appears to be 'Miki Ehrlich'.

Alan and Miki Ehrlich

City of Yellowknife

AUG 25 2020

Received

August 25, 2020

Cathy Cudmore

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
4807 – 52 Street, (City Hall)
P.O. Box 580, Yellowknife, NT X1A 2N4

Attention: Debbie Gillard

Dear Debbie:

Re: Notice of Appeal of the Development Permit #PL-2019-0168

This letter constitutes the written Notice of Appeal of the Development Permit #PL-2019-0168 Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue) (the "Development Permit") issued on August 11, 2020, granting a variance to permit a 45.8% height increase, and approving the conditionally permitted use for the establishment of a multi-family dwelling as a "similar use" to that of a multi-attached dwelling.

Facts

Council Motion #0074-20 on May 11, 2020 approved a Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as Similar use to that of a Multi-Attached Dwelling on Lot 17 Block 80.

The Development Permit was issued August 11, 2020 based on Council's decision and the permit included a height variance of 45.8%.

Grounds of Appeal

1. I am a person adversely affected by the Development Permit.

I live in the closest residential house to the proposed development. My property is located at Lundquist Road, approximately 60 meters from the proposed development.

I have also received letters from the City of Yellowknife, dated April 17, 2020, in regards to Council's proposed decision to approve a Conditionally Permitted Use and August 11, 2020 indicating I am affected by a Development Officer approval of a multi-family dwelling as conditional use with a variance of maximum height of 45%.

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Multi-Family Dwellings and Multi-Attached Dwellings are not similar use.

Pursuant to the definitions in By-Law 4404, multi-attached is defined as a residential building containing three or more dwelling units side by side or stacked each having a separate access to ground level. Multi-family is defined as a building containing three or more dwelling units with shared entrance facilities. Council approved the proposed development stating that a multi-family development is the same in character or purpose to a multi-attached development. There are significant differences in these two types of dwellings. They are not the same in character or purpose.

The “similar use” clause is to be used when not every situation can be contemplated, as per page 254 of “Municipalities and Canadian Law: Defining the Authority of Local Governments”.

3. The variance permitting a 45.8% height increase and permitting the development of a multi-family dwelling is a contravention of By-Law 4404 and the Community Plan.

Contravention of By-Law 4404

By-Law 4404, which is yet to be amended to comply with the Community Plan, places the lot in question in the Old Town Mixed zone. By-Law 4404 makes specific mention of the preservation of the character of Old Town and contemplates development where the design, character, and appearance is comparable with and complimentary to the surrounding properties. There are no other high-density modern apartment style buildings in Old Town. The Development Permit does not comply with the spirit or intention of By-Law 4404 to preserve the unique character of Old Town.

By-Law 4404 s 10.18 Old Town Mix refers to multi-attached dwellings and buildings must be developed in accordance with the by-laws. By-Law 4404 at section 10.18 (5) (a) states:

Notwithstanding the minimum requirements of this zone, single detached, duplex and multi-attached dwellings shall be developed in accordance with the provisions of s. 10.8.

Section 10.8 indicates that the general purpose is:

To provide an area for low density residential development in the form of single detached and duplex dwellings and compatible uses as herein listed.

Only multi-attached dwellings are listed as a conditionally permitted use.

In addition, section 7.3(1) of By-Law 4404 sets out the “essential components” for multi-attached and multi-family dwellings. The following are the essential components:

- a) access for emergency vehicles;
- b) access to enclosed garbage storage;
- c) fencing, if required by the Development Officer;
- d) light between buildings;
- e) pedestrian access to and from the public sidewalk serving the building; and
- f) flood lighting and parking light standards sufficient to provide for safety and security and that have a minimal impact to adjacent residential development.

The proposed development does not meet the essential components under s.7.3(1) because the proposed development does not have pedestrian access to and from the public sidewalk serving the building. There is currently no sidewalk in front of the proposed development and the development does not show any plan to build a sidewalk. Further, the proposed development does not demonstrate any planned parking or outdoor safety lighting developed to minimally impact to adjacent residential developments as required.

Variations can only be permitted pursuant s. 3.5 of By-Law 4404 if the variance would not unduly interfere with the amenities of the neighborhood, or materially interfere with or affect the use, enjoyment or value of neighboring properties.

This variance will impact me and will materially affect my use enjoyment and property value. I moved to this neighborhood because it was in Old Town. The street was a small quiet street and had small unique residences. This Development Permit allows for a variance to develop a very large structure to house many new residents. The proposed development is a high-density development which will materially increase noise, traffic, parking issues and the impact on the area parks. Increased pedestrian and vehicle traffic, as well as windows and balconies with a view of my house and deck will reduce my privacy. Further, the building will cover a significant rock outcrop that is a major feature in the City of Yellowknife. If the Development Permit is not revoked, when I look out of my living room window or sit on my deck I will see a large building instead of the natural rock which is a distinct feature of the Yellowknife landscape.

The close proximity of the proposed development to my house takes away the main feature of my location, which is a small quiet street with six houses and will result in a loss of property value. Adding 65 units to a neighborhood with six houses is substantial. A development such as this results in location obsolescence.

Contravention of the Community Plan

The Development Permit also contravenes the Community Plan. The newly adopted 2019 Community Plan proposes including the lot in a zone called “Downtown Central Residential”. The Community Plan at section 4.1.2 describes the Downtown Central Residential zone as:

“... a transition area between the high density City Core and other area designations like Old Town”

Policy 3.a of the Community Plan states that By-Law 4404 will be revised to allow for higher density re-development in the City Core stepping down to medium density zoning further from the City Core.

Pursuant to By-Law 4404, which is yet to be amended, a multi-attached dwelling is described as medium density while a multi-family dwelling is described as a high density use.

Relief Sought

I ask that the Appeal be granted and that the Development Appeal Board:

- 1) Revoke the Development Permit; or
- 2) In the alternative, impose conditions that the proposed development be revised to comply with the current requirements of By-Law 4404.

Please find enclosed the required \$25.00 filing fee.

Respectfully Submitted,



Cathy Cudmore
Lundquist Rd.
Yellowknife, NT X1A 3G2

September 10, 2020

Stefanie Laurella

DELIVERED BY EMAIL
cityclerk@yellowknife.ca

City of Yellowknife
Development Appeal Board
P.O. Box 580,
Yellowknife, NT X1A 2N4

Attention: Secretary of the Appeal Board,
Debbie Gillard

Dear Ms. Gillard:

Re: Appeal of Development Permit No. PL-2019-0182

This letter, together with the Notice of Appeal dated August 25, 2020, constitutes the written submission of Cathy Cudmore (“Ms. Cudmore”) in her appeal from the development permit #PL-2019-0168 (the “Development Permit”).

The Development Permit in question was issued with respect to the construction of a 65-unit, Multi-Family residential dwelling located on Lot 17, Block 80 commonly known as 4024 School Draw Avenue, Yellowknife, Northwest Territories (the “Proposed Development”). The Development Permit is attached at **Tab A**.

On April 17, 2020, letters were sent to residents within 100 meters of the Proposed Development advising of a Council meeting to determine whether the Proposed Development would meet the criteria for “similar use” to the conditionally permitted use of a multi-unit dwelling. Ms. Cudmore’s residential property is located within 60 meters of the Proposed Development. Ms. Cudmore was a recipient of the April 17, 2020 letter. Residents were invited to participate in the Council meeting. A copy of the April 17, 2020 letter is appended at **Tab B**.

On May 4, 2020, the Governance and Priorities Committee met and voted to approve the recommendation to Council for a “similar use” variance for the Proposed Development. A copy of the Minutes of the meeting is appended at **Tab C**.

On May 11, 2020, Council approved the Proposed Development as a similar use to the conditionally permitted use of a Multi-Attached Dwelling. A copy of the Minutes of the meeting is appended at **Tab D**. In making their determination on whether the Proposed Development constituted a similar use to a multi-attached dwelling, Council relied upon a memorandum

drafted by the City of Yellowknife. A copy of the City of Yellowknife’s Memorandum to Council is appended at **Tab E**.

The Development Permit was issued on August 11, 2020 citing not only Council’s approval of the conditionally permitted use of a Multi-Family Dwelling as a “similar use” to that of a Multi-Attached Dwelling but also permitting a 45.8% height variance increase.

On August 25, 2020, Ms. Cudmore submitted a Notice of Appeal seeking the revocation of the Development Permit on the grounds that a Multi-Attached and Multi-Family Dwelling are not similar use dwellings, and the Development Permit is in contravention of both the City of Yellowknife’s By-Law 4404 and Community Plan.

The purpose of this letter is first, to expand on the legal argument made in the Notice of Appeal and to outline the legal framework governing the authority of Council and the Development Board.

It is Ms. Cudmore’s position that the Development Permit should be revoked on the basis that Council erred in their analysis of “similar use”, and that the Development Permit was issued outside of the confines of what is permitted by By-Law 4404 and the Community Plan.

Governing Legal Framework

Principles of Administrative Law

The fundamental principle of natural justice is reflected in the rules of administrative law, which govern the actions of all public decision-makers. It is a well established legal principle that all such decision-makers owe a general duty of fairness to those affected by their decisions.¹

Public decision-makers are also required to render decisions that are, at a minimum, reasonable. Decisions that do not meet this standard may be overturned by the courts on judicial review. In the leading Supreme Court of Canada (“SCC”) case on judicial review of administrative decisions, it was held that, “In conducting a reasonableness review, a court must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified.” While the SCC calls for the review to be respectful of the administrative decision maker, the SCC also notes that the review is robust.²

As public authorities tasked with statutory decision-making authority which impacts the community, the requirements of procedural fairness and substantive reasonableness apply to decisions of the Development Board and Council. Decisions must be transparent, intelligible and defensible in regard to the facts and law.

¹ *Blencoe v. British Columbia*, 2000 SCC 44 at para 105; *Martineau v. Matsqui Institution Disciplinary Board*, [1980 1 SCR 602 at p. 628].

² *Canada (Minster of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at paras 12 & 15.

Power of Development Appeal Board

Section 3.10(1)(b) of the City of Yellowknife By-Law 4404 (“By-Law 4404”) permits an affected person to appeal the decision of the Development Officer or Council.

On appeal, the Development Appeal Board has the power, pursuant to s. 69 of the *Community Planning and Development Act*, to either confirm, reverse, vary or impose conditions on the Development Permit.

Council erred in the application of law when determining “similar use”

Section 3.4(6) of By-Law 4404 permits Council to determine whether a “use” is “similar in character and purpose” to a permitted use in a given zone. This authority is echoed by s. 22 of the *Community Planning and Development Act*.

“Similar Use” is defined in By-Law 4404 as: “development deemed by Council to be similar in nature to a permitted or conditionally permitted use”

In the City of Yellowknife’s Memorandum to Council, an excerpt from *Municipalities and Canadian Law: Defining the Authority of Local Governments* was cited as defining the purpose of a “similar use” category. According to the excerpt, the purpose of a similar use category is to remedy unforeseeable situations, mistakes by builders and “minor nonconformities that may be expensive to rectify after construction is complete”.

According to the authority cited by the City of Yellowknife, a similar use exemption is not used where the situation is foreseeable or a major non-conformity.

The Proposed Development has yet to be constructed therefore the non-conformity of the plans for the Proposed Development with By-Law 4404 is not an unforeseeable, after the fact mistaken error.

In addition, the Memorandum to Council provided “precedents” of Council motions where conditionally permitted uses were authorized. Only two of the twenty-one “precedents” considered a similar use analysis. One of the two Council Motions (0069-19) provided no written reasons in the Council minutes. The similar use permitted was considered within the context of a similar business use, therefore it is submitted that there is no precedential value in the residential context.

The second Council Motion (0052-17) determined whether temporary cabin construction was a similar use to a single detached dwelling. Both dwelling types were single-family dwellings and the cabin construction was temporary. Permitting a temporary cabin did not cause a change in area density even on a temporary basis.

The City of Yellowknife tendered no true precedent with any likeness to the similar use permitted in the Development Permit at issue in this appeal.

Permitting a Multi-Family Dwelling in the context of this Development Permit is not a minor nonconformity. While a Multi-Attached and Multi-Family Dwelling may appear externally to be

similar structures, the construction of a Multi-Attached Dwelling permits a major deviation in density.

The Proposed Development is a 65-unit development. The largest residential development in the zone is a multi-unit row house containing 8 units. Deeming the Proposed Development to be a similar use to other Multi-Attached Dwellings in the area permits a major increase in density as compared to other buildings in the zone. Ms. Cudmore submits that such an increase in density is not a minor nonconformity.

There was no law or precedent before Council to support a determination that a Multi-Family and Multi-Attached Dwelling are similar use dwellings.

By-Law 4404 imposes conditions upon Multi-Attached Dwellings in the Old-Town Mixed Zone, which Council determined is a similar use to the Multi-Family Dwelling permitted by Council on May 11, 2020. Section 10.8, read together with section 10.18(5)(a) of By-Law 4404, states that the general purpose for development in the Old Town Mixed Use zone is:

“to provide an area for low density residential development in the form of single detached and duplex dwellings and compatible uses as herein listed.”

The key feature is not the style of building construction but rather the density of the residential development. When considering whether a Multi-Attached and Multi-Family Dwelling are similar use dwellings, Council erred in failing to consider the density of the Proposed Development.

VariANCES Permitted in the Development Permit Contravene By-Law 4404 & the Community Plan

Contravention of By-Law 4404

Likewise, the Development Officer erred in permitting 45.8% height variance.

Section 3.5 of By-Law 4404 states:

A variance may only be granted if, in the opinion of the Development Officer or Council:

(a) The proposed variance would not result in a development that will:

- i) unduly interfere with the amenities of the neighbourhood; or
- ii) materially interfere with or affect the use, enjoyment or value of neighboring parcels of land.

(b) The subject site has irregular lot lines or is a size and shape that presents challenges to development.

(c) The subject site has physical limitations relating to terrain, topography or grade that may create difficulties in meeting the zoning regulations as prescribed in this by-law.

(d) The subject site has natural features such as rock outcrops or vegetation that may create difficulties in meeting the zoning regulations as prescribed in this by-law.

(e) An error has occurred in the siting of a structure during construction.

(f) The proposed development conforms to the uses prescribed in this by-law.

The authority to provide a variance is mirrored at s. 23(1) of the *Community Planning and Development Act*,

23. (1) A zoning bylaw may authorize a development authority to approve an application for a development permit in respect of a proposed development that does not fully conform with the bylaw, if the development authority is satisfied that the proposed development would not

(a) unduly interfere with the amenities of the neighbourhood; or

(b) detract from the use, enjoyment or value of neighbouring parcels of land.

By-Law 4404 contemplates development where the design, character, and appearance is comparable with and complimentary to the surrounding properties and as noted above contemplating a low-density residential development.

By permitting a 45.8% height variance, the Proposed Development is no longer conforming to the prescribed low-density residential use.

Further, the height variance and increase in density will materially interfere with and affect Ms. Cudmore's use and enjoyment of her property. Particularly, her privacy will be impacted as the windows and balconies of the proposed development will have a bird's eye view of her entire property, including her yard and deck.

Additionally, the increased density will impact neighbourhood noise pollution, traffic, parking, place additional stress on area parks and greenspaces, and create location obsolescence of Ms. Cudmore's property.

Non-Compliance with Community Plan Priorities

The height variance is also noncompliant with the 2019 Community Plan.

As a result of the recently adopted 2019 Community Plan, the Proposed Development falls within two different zones. The Proposed Development is captured by the new "Downtown – Central Residential" zone however, pursuant to By-Law 4404, the Proposed Development is within the "Old Town Mixed Use" zone.

While By-Law 4404 has yet to be amended to reflect the new zoning outlined in the 2019 Community Plan, for the purposes of analyzing Council's priorities and intentions for the particular lot in question, the two documents are not at odds.

Ms. Cudmore submits that it is the 2019 Community Plan, and not the 2011 General Plan, which was specifically considered by Council, is the correct Plan to apply to this appeal.

The 2011 Community Plan states, “Development Priorities may change accordingly and will not require amendment to this Plan.” By April 2020, when the Development Permit was still in consideration, the December 2019 Community Plan had already passed a second reading.

The intention to amend the development priorities for the City of Yellowknife and what those intentions were, was known. Therefore, Ms. Cudmore submits that given the language in the 2011 Community Plan, the more current priorities detailed in the 2019 Community Plan are the appropriate priorities to consider.

The 2019 Community Plan refers to the “Downtown - Central Residential” zone as a “transition zone” from the “high density city core” to “other area designations like Old Town”. The 2019 Community Plan contemplates an amendment to By-Law 4404 to allow for higher density development in the City Core zone petering down to medium density further from the City Core. In relation to the lot subject to the Development Permit, By-Law 4404 already contemplates lower density development in that area.

The lot in question is situated on the border of the “Downtown – Central Residential” and Old Town zones. If the intention of the “Downtown – Central Residential” zone is to act as a transition zone stepping down in density further away from the City Core, then a height variance, which permits a high-density development dwarfing all surrounding buildings, is not in keeping with the Community Plan priorities.

Remedy Sought

While Ms. Cudmore is not opposed to residential development on 4024 School Draw Avenue, she is opposed to permitting a high-density residential development that does not comply with the City’s bylaws or Community Plan. Accordingly, Ms. Cudmore seeks a revocation of the Development Permit.

Yours very truly,

LAWSON LUNDELL LLP



Stefanie Laurella

SNL1

Enc.

cc. Cathy Cudmore

Appendix

A



CITY OF YELLOWKNIFE
NOTICE OF DEVELOPMENT APPROVALS
August 14, 2020

The following development permit applications have been approved by the Development Officer. Any persons claiming to be adversely affected by the development may, in accordance with the *Community Planning and Development Act*, appeal to the Development Appeal Board, c/o City Clerk's Office, tel. 920-5646, City of Yellowknife, P.O. Box 580, Yellowknife, NT X1A 2N4. Please note that your notice of appeal must be in writing, comply with the *Community Planning and Development Act*, include your contact information and include the payment of the \$25 appeal fee. (The appeal fee will be reimbursed if the decision of the Development Officer is reversed.)

Date of Decision: **August 5, 2020**
#PL-2020-0244 Lot 11, Block 569, Plan 4690 (108 Braden Boulevard)
Intended Development: Single Detached Dwelling

Last Date to Appeal: **August 19, 2020**

Date of Decision: **August 6, 2020**
#PL-2020-0182 Lot 73, Block 501, Plan 4746 (226 Hall Crescent)
Intended Development: Duplex

Last Date to Appeal: **August 20, 2020**

Date of Decision: **August 11, 2020**
#PL-2019-0168 Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue)
Intended Development: Multi-Family Dwelling
The maximum height has been increased from 10.0 m to 14.58 m (45.8% variance)
Council Motion #0074-20: "That Council approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a "Similar Use" to that of a Multi-Attached Dwelling at Lot 17 Block 80 (former Bartam site- 4024 School Draw Avenue)"

Last Date to Appeal: **August 25, 2020**

Additional information may be obtained by contacting the City of Yellowknife at (867) 920-5600.

Dated the 14 of August 2020

DM #621283

Appendix B



CITY OF YELLOWKNIFE

HAND DELIVERED WITH COVID BEST PRACTICES

April 17, 2020

File: Lot 17 Block 80; PL-2019-0168

Lynagh, Anne
Lundquist Rd
Yellowknife, NT

To Whom It May Concern,

NOTICE OF A PROPOSED LAND USE IN YOUR NEIGHBOURHOOD LISTED AS A CONDITIONALLY PERMITTED USE

The Delivery of this letter is in response to a notice delivered by mail through the period of April 3rd to April 16th. Due to delays in residents receiving the notification, the City of Yellowknife has decided to extend the period for comment and recommendations until May 1st at 9:00 am. Our sincerities for any inconvenience this may have caused. Comments may be sent via email to lmacphail@yellowknife.ca or by regular mail at the address below.

A developer is proposing a 65 Unit Multi-Family Dwelling to be developed on Lot 17 Block 80 (4024 School Draw Avenue; also known as the Old Bartam Trailer Park). Identified within the Zoning Bylaw (No. 4404), is *Similar Use*, which is listed as a conditionally permitted use under the OM- Old Town Mixed Use zone. A Conditionally Permitted Use requires a municipal decision by Council. A proposed site plan and elevations have been attached to this letter.

Please note that after 9:00am on May 1st, 2020, the Development Officer or Council may deal with the application whether or not the comments or recommendations have been received. Your views will be considered by the City. However, please keep in mind that the Zoning By-law's regulations limit the discretion which may be used in these decisions, and that all decisions must be consistent with the long term goals of the community as a whole. Property owners have been notified within a 100 metre radius of the subject property.

Please feel free to email Libby Macphail, Planner at the City's Planning and Lands Division at the email address above if you have any questions about this notice or the proposed conditionally permitted use.

Please address written comments to: Libby Macphail
Planner
City of Yellowknife, Planning & Lands Division
P. O. Box 580
Yellowknife, NT, X1A 2N4

Appendix C



CITY OF YELLOWKNIFE

GOVERNANCE AND PRIORITIES COMMITTEE REPORT

Monday, May 4, 2020 at 12:05 p.m.

Report of a meeting held on Monday, May 4, 2020 at 12:05 p.m. in the City Hall Council Chamber. The following Committee members were in attendance:

Chair: Mayor R. Alty,
Councillor N. Konge,
Councillor S. Morgan,
Councillor J. Morse,
Councillor C. Mufandaedza,
Councillor S. Payne,
Councillor S. Smith, and
Councillor R. Williams.

The following members of Administration staff were in attendance:

S. Bassi-Kellett,
E. Bussey,
D. M. Gillard,
C. Greencorn,
G. Littlefair,
R. Lok,
K. Penney,
G. White,
S. Woodward, and
S. Jovic.

<u>Item</u>	<u>Description</u>
1.	(For Information Only) There were no disclosures of pecuniary interest.
2.	(For Information Only) Committee heard a presentation from Milan Mrdjenovich, Developer, with respect to a memorandum regarding whether to approve a Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (4024 School Draw Avenue). Mr. Mrdjenovich noted that they



would like to build a 65-unit apartment building at Lot 17, Block 80. He further noted that they have owned this property for over two (2) decades and they have invested \$1.5 million in this property and paid approximately \$0.5 million in property taxes. He stated that they would like to address the need for Multi-Family Dwellings in Yellowknife. He further stated that even though the property has physical limitations, there will be minimal terrain disturbance and no blasting is required for the proposed development.

(For Information Only)

3. Committee heard a presentation from Dave Jones, a representative of the Back Bay Community Association, in opposition to a memorandum regarding whether to approve a Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (former Bartam site - 4024 School Draw Avenue). Mr. Jones noted that the developer is attempting to interpret the “similar use” clause to mean that an apartment building is similar to townhome development, which is permitted under the OM zone. Mr. Jones further noted that an apartment building on this site is not permitted within the OM zone under Zoning By-law No. 4404. Mr. Jones stated that the apartment building is proposed at 4 stories with a height of approximately 15 meters. Mr. Jones further stated that under the current General Plan By-law it is stated that no building should exceed three stories in height. Mr. Jones advised that the Zoning By-law provides for a 10 meter height limitation in the OM zone and that the proposed variance is being improperly applied, and is contrary to Section 8.5 of the General Plan and Section 3.5 of the Zoning By-law. Mr. Jones noted that the proposed development is too big and it doesn’t meet the criteria under Section 4 of the General Plan – Community Design and Heritage and Section 8.2 of the Zoning By-law which outlines Design Standards for Twin Pine Hill with regards to sidewalk and parking. In closing Mr. Jones stated that the Developer should submit a revised application that meets the intent of the General Plan By-law and the Zoning By-law or Council should wait until the new Community Plan By-law is approved to undertake Zoning By-law amendments in order to allow the proposed development.

(For Information Only)

4. Committee heard a presentation from David Gilday, in opposition to a memorandum regarding whether to approve a Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (former Bartam site - 4024 School Draw Avenue). Mr. Gilday noted that the proposed development doesn’t meet the requirements set out in the Zoning By-law for land density, height standards, site coverage and parking for a parcel of land this size. Mr. Gilday further noted that the addition of a 65 unit apartment building will result in a significant change to the visual nature of the neighbourhood, will change the pulse of the neighbourhood, will result in street congestion on both School Draw Avenue and Lundquist Road and will have a negative effect on the value of the neighbouring parcels of land.

(For Information Only)

5. Committee heard a presentation from Cathy Cudmore in opposition to a memorandum



regarding whether to approve a Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (former Bartam site - 4024 School Draw Avenue). Ms. Cudmore noted that they are the closest house to the lot in question and they have not received any notices or drawings of this proposed development from the applicant. Ms. Cudmore further noted that under the General Plan this area is in the Character Area for Old Town, however the proposed project does not appear to match anything in regards to Old Town and it does not match the City’s intensification compatibility.

(For Information Only)

6. Committee heard a presentation from Mr. Alan Erlich in opposition to a memorandum regarding whether to approve a Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (former Bartam site - 4024 School Draw Avenue). Mr. Erlich noted that it would not be reasonable for Council to conditionally permit this huge building at this site for the following reasons:
- An apartment building is not a “Similar Use” to the permitted uses for the area. It is really different from Multi-Attached Dwellings” in size, density, style, and massing from townhouses.
 - It would clash with the setting and surrounding buildings along School Draw Avenue.
 - Council should respect the spirit of the City of Yellowknife’s current General Plan, which is designed to protect the character of Old Town.
 - Permitting this would contradict the City of Yellowknife’s own published principles in the general plan update.
 - This development would further diminish the beauty of Twin Pine Hill.

(For Information Only)

7. Committee recessed at 1:24 p.m. and reconvened at 1:34 p.m.
8. **Committee read a memorandum regarding whether to approve a Conditionally Permitted Use (Similar Use) at Lot 17, Block 80 (4024 School Draw Avenue).**

Committee noted that there are two types of multi-residential dwelling classifications in the Zoning By-law. A Multi-Attached Dwelling is a residential building containing three or more dwelling units each having a separate access to the ground level. A Multi-Family Dwelling is a residential building containing three or more dwelling units with shared entrance facilities. The townhouses on McDonald Drive near the Latham Island Causeway are an example of a Multi-Attached Dwelling and the groups of apartments east of 52nd Avenue are examples of a Multi-Family Dwellings. In the Old Town Mixed Use zone, Multi-Attached Dwellings are listed as a permitted use, but Multi-Family is not.

The City has received a Development Permit application for establishment of a 65-Unit Multi-Family Dwelling at 4024 School Draw Avenue, the former location of the Bartam Trailer Park. Figure #1 on the following page provides a point of reference.



Committee noted that Council's policies, resolutions and goals include:

- Goal #4: Driving Strategic land development and growth opportunities
Objective 4.2: Promote development across the City

Committee noted that applicable legislation, by-laws, studies and plans include:

1. *Community Planning and Development Act, S.N.W.T. 2011;*
2. General Plan By-law (2011) No. 4656, as amended;
3. Community Plan By-law (2020) No. 5007 (pending final approval); and
4. Zoning By-law No. 4404, as amended.

Figure #1: Subject Property – Lot 17 Block 80



Committee noted the following considerations:

Legislative

The City of Yellowknife is granted the authority to control land uses by way of a Zoning By-law under Section 12 of the *Community Planning and Development Act*.

2011 General Plan and the 2020 Draft Community Plan

The subject land is designated Mixed-Use in the 2011 General Plan. These areas are identified as having a high potential to maintain or achieve compact and mixed use developments, particularly through redevelopment and intensification. The proposed Multi-Family Dwelling, in close proximity to the downtown core, is considered an appropriate use for this land designation.

The 2020 Community Plan, pending final Ministerial approval and by-law adoption, provides



a clear distinction between Old Town and the Central Residential neighbourhood that circles the Downtown Core. The Central Residential neighbourhood is “anticipated to be a transition area between the high-density city core and other area designations like Old Town, the Recreation Hub, and Old Airport Road Commercial”. The Bartam site is located in the Central Residential designation, not the Old Town designation. The 2020 Community Plan provides the following direction: “the Central Residential area is mostly low density residential, but due to its proximity to walkable amenities and grid pattern of streets, it is suitable to transition to higher density residential and multi-use development through infill. Infill opportunities include development of vacant lots or redevelopment and densification of existing developed lots”.

Zoning By-law No. 4404, as amended

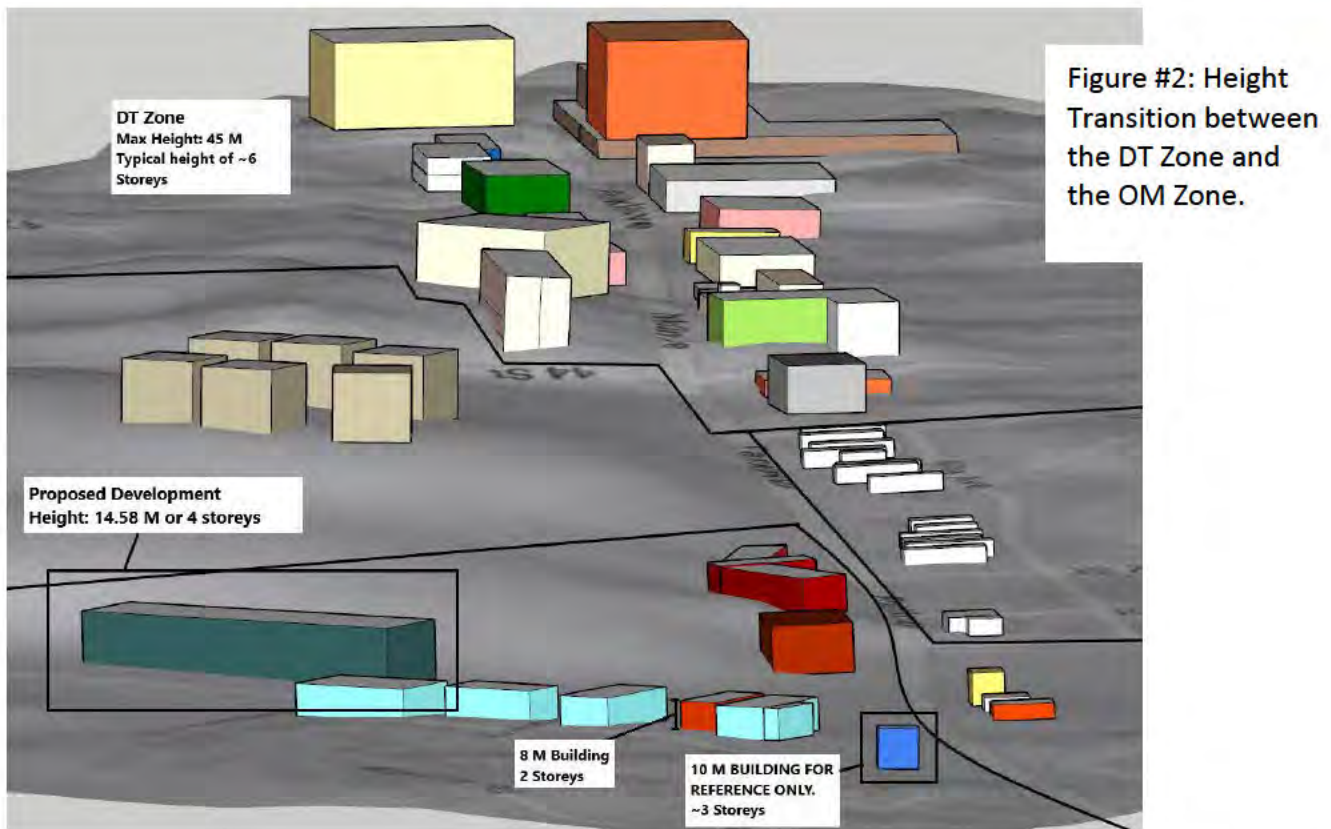
Section 2.4(1)(a) of Zoning By-law No. 4404 states that Council shall:

Make decisions and state any terms and conditions for development permit applications for those uses listed as Conditionally Permitted Uses.

Zones within the Zoning By-law list the land uses that are permitted on an applicable parcel of land. In addition, zones may also list a series of Conditionally Permitted Uses that may be permitted by Council after due consideration is given to the impact of the use upon neighbouring land and other lands in the City.

The subject property is zoned Old Town Mixed Use (OM). The purpose of the zone is to “provide for a mix of commercial and residential uses”. The subject property is located along School Draw Avenue, towards the entrance of Old Town. Old Town is an area of mixed use and development, with adjacent land uses that include commercial, residential, light industrial, and parks and natural space.

The proposed Multi-Family Dwelling may be considered as a “Similar Use” as it is consistent with the character and purpose of other uses listed in the OM zone and the parcel of land is adjacent to the Downtown zone. The proposed development is residential in nature and it is not dissimilar to other residential uses permitted in the zone such as Multi-Attached Dwellings. Proximity to the Downtown zone is key; Multi-Family development is not considered appropriate in the core of the OM zone where lower intensity land uses and smaller scale buildings predominate.



Variance

The applicant has asked to increase the height of the structure from 10.0 m to 14.58 m (45.8% Variance) to accommodate a four-storey structure. The OM Zone height restrictions reflect that of Multi-Attached Dwellings or light industrial structures. The subject site has physical limitations related to terrain due to the exposed bedrock of Twin Pine Hill. The proposed development seeks to minimize terrain disturbance by locating the structure in the former developed area adjacent to School Draw.

Because the subject property is located near the entrance of Old Town, the proposed development of four storeys would provide a context appropriate transition between the high density nature of the Downtown (DT) Zone and the medium to low density nature of the OM Zone. The proposed variance to the height is not expected to unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring properties, the sidewalk, or School Draw Avenue because it is located adjacent to the toe of the bedrock slope.

Design Standards for Twin Pine Hill

The Twin Pine Hill Area is a prominent area of the municipality. The area includes large amounts of granite rock, panoramic viewing points of Old Town and Great Slave Lake, and recently constructed recreational trails. The purpose of the design standards is to ensure development has a low impact upon the natural landscape of Twin Pine Hill. The proposed development aligns with the Design Standards for Twin Pine Hill by minimizing terrain



disturbance of the natural bedrock and limiting tree removal, and by incorporating linkages to the existing trail network.

Municipal Asset Management

The proposed development is an infill project on a vacant parcel of land located on a collector road. Establishment of this development allows the City to capitalize on existing assets, including sidewalks, curbs and streetlights; piped infrastructure, the municipal fire service, Route C of the municipal bus service, and integration into the existing Twin Pine Hill trail system. The City can avoid the associated costs of greenfield development and newly introduced infrastructure by capitalizing on infill development and existing services.

Neighbourhood Notification

Section 3.7 (2) of the Zoning By-law specifies that all property owners within 30 metres of land under consideration for a Conditionally Permitted Use must be provided notice. Due to the orientation of the property and the distance to the proximal residential neighbourhood, 100 m was chosen as the notification boundary as it more accurately captured the intent of the neighbourhood notification. A letter prepared by staff advising of the proposed development was mailed to all owners and lessees of the land within 100 metres of the subject property on Tuesday, April 7th, 2020.

Due to the COVID-19 Public Health Emergency and the Easter weekend, significant mail delays occurred and residents received their notices with little time to consider the proposed development. To remedy this, administration extended the deadline for public comment and hand delivered new notices to all owners and lessees of the land within 100 metres of the subject property on April 17th, 2020. The deadline for public comment was extended to May 1st, 2020 at 9 am. Property owners were supplied with the detailed site plan and building elevations for the proposed development. 37 total written comments were submitted during the engagement period from 22 individuals and families. The chart below provides a summary of the concerns and comments that were collected during the public engagement process. Planning staff’s response is also provided. A detailed listing of all concerns expressed accompanies this report.

Summary of Public Comments and Concerns	Staff Response
Concern that the development does not align with the 2011 General Plan or the Zoning By-Law	Consideration was given to the 2011 General Plan and the Draft Community Plan when analyzing this development proposal. In the 2011 General Plan, the lot is designated as Mixed-Use and part of the Old Town Character area. This designation applies to areas that have been identified as having a high potential to maintain or achieve compact and mixed use developments. The General Plan states “compatible development means development that, although it is not necessarily the same as, or similar to, existing buildings in the vicinity, nonetheless enhances an established community and coexists with existing development without causing undue adverse impact on surrounding properties”. In the Draft Community Plan, the lot is identified as Central Residential, which designates the



	area as suitable for transition to higher density residential and multi-use development through infill.
Concerns regarding the blasting of bedrock	The developer has indicated that there will be minimal terrain disturbance of the natural bedrock and no blasting is required for the grading work needed.
Concerns regarding the definition/suitability of “Similar Use”	In making a decision on an application for a Conditionally Permitted Use, Council shall give due consideration to: the impact of properties in the vicinity of the proposed development; the design, character and appearance of the proposed development; and the treatment provided to site considerations. A “Similar Use” is a development deemed by Council to be similar in nature to a permitted or conditionally permitted use.
Concerns regarding parking and traffic	Zoning By-law parking requirements are one space per dwelling unit. 65 car parking stalls are required for this development and 79 are proposed to be installed. A Traffic Impact Study is a requirement of the development permit process and any adverse impacts to traffic flow will be mitigated with implementation of the study’s recommendations.
Concerns regarding the design of the building	The development is required to meet all design standards outlined in the Zoning By-law Section 8.2; Design Standards for Twin Pine Hill, and the direction provided in the Old Town Mixed zone. The size and scale of the building is context appropriate considering the proximity to the downtown core and the Twin Pine Hill rock face, and the proposed building design demonstrates a varied roof line, extensive windows and balconies on the elevations, hard-board siding, and a varied colour palette.

Site Plan and Building Elevations

The proposed building meets site regulations such as setbacks, density figures, parking and site coverage. The finalized site plan and development agreement will be approved by the Development Officer as part of the final steps of the Development Permit process.

Committee noted that the proposed Multi-Family Dwelling may be considered as a “Similar Use” as it is consistent with the character and purpose of other uses listed in the Old Town Mixed Use zone and the parcel of land is adjacent to the Downtown zone. The development aligns with the municipal land-use policy for infill growth. The proposed development located at the base of Twin Pine Hill will provide a context appropriate transition between the high density nature of the Downtown zone and the medium to low density nature of the Old Town Mixed Use zone.

(For Information Only)

9. Committee continued its discussion regarding a memorandum regarding whether to approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (former Bartam site - 4024 School Draw Avenue).



- (For Information Only)
10. Councillor Payne left the meeting at 2:05 p.m.
- (For Information Only)
11. Committee continued its discussion regarding a memorandum regarding whether to approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (former Bartam site - 4024 School Draw Avenue).
- (For Information Only)
12. Councillor Smith left the meeting at 2:09 p.m.
- (For Information Only)
13. Committee continued its discussion regarding a memorandum regarding whether to approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (former Bartam site - 4024 School Draw Avenue). The majority of Committee spoke in favour of the proposed Multi-Family Dwelling. Committee noted that consideration has been given to the 2011 General Plan and the Draft 2020 Community Plan. Committee further noted that the Draft 2020 Community Plan is pending Ministerial approval. Committee noted that in the Draft Community Plan, the lot is identified as Central Residential, which designates the area as suitable for transition to higher density residential and multi-use development through infill. The majority of Committee felt that the size and scale of the building is context appropriate considering the proximity to the downtown core.

Committee recommends that Council approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (4024 School Draw Avenue).

MOVE APPROVAL

14. Councillor Mufandaedza moved,
Councillor Morse seconded,

That, pursuant to Section 118 (11) of Council Procedures By-law No. 4975 the meeting be extended beyond three (3) hours.

MOTION CARRIED UNANIMOUSLY

- (For Information Only)
15. Committee heard a presentation regarding City of Yellowknife’s Operations related to COVID-19. Administration noted that ongoing focus is on public safety, staff safety and sustainability/the long term. Administration further noted that the next steps include:
- Continue to respond to CPHO Orders and prepare to adapt nimbly to changes when they come;



- Assess what can resume and with what restrictions for a gradual resumption of programs and services;
- Prepare for seasonal transitions;
- Continue to monitor best practices and apply to Yellowknife; and
- Assess impacts on City, including our financial outlook.

(For Information Only)

16. Councillor Williams left the meeting at 2:56 p.m.

(For Information Only)

17. Committee heard a presentation regarding City Issues and Fiscal Overview related to COVID-19. Administration noted that COVID-19 has impacted the City's financial situation and will continue to do so in the foreseeable future. Administration provided an update on what the City has done to date to mitigate fiscal pressures within the City and within our community and provided a proposed framework for evaluating future measures and presented potential paths for moving forward. Administration noted that to support financial decision making with respect to COVID-19, they developed a series of key planning principles to provide framework for decision making.

Committee requested that Administration bring forward at the next GPC meeting a memorandum to committee regarding the City's Fiscal Overview related to COVID-19.

(For Information Only)

18. Councillor Morse moved,
Councillor Mufandaedza seconded,

That Committee move in camera at 3:40 p.m. to discuss a memorandum regarding whether to appoint a member to serve on the Heritage Committee, a memorandum regarding whether to appoint someone to fill a vacant position on the Audit Committee, and a personnel matter.

MOTION CARRIED UNANIMOUSLY

(For Information Only)

19. Committee deferred a memorandum regarding whether to appoint a member to serve on the Heritage Committee, to the next GPC meeting.

(For Information Only)

20. Committee deferred a memorandum regarding whether to appoint someone to fill a vacant position on the Audit Committee, to the next GPC meeting.

(For Information Only)

21. Committee deferred a personnel matter to the next GPC meeting.



-
- (For Information Only)
22. Councillor Morse moved,
Councillor Mufandaedza seconded,

That Committee return to an open meeting at 3:40 p.m.

MOTION CARRIED UNANIMOUSLY

- (Business arising from the in-camera session)
23. There was no business arising from in camera session.
24. The meeting adjourned at 3:40 p.m.

Appendix D



CITY OF YELLOWKNIFE
ADOPTED COUNCIL MINUTES

Monday, May 11, 2020 at 7:00 p.m.

Present: Mayor R. Alty,
Councillor N. Konge,
Councillor S. Morgan,
Councillor J. Morse,
Councillor C. Mufandaedza,
Councillor S. Payne, and
Councillor R. Williams.

City Staff: S. Bassi-Kellett,
E. Bussey,
C. Greencorn,
G. Littlefair,
R. Lok,
K. Penney,
G. White
S. Woodward, and
D. M. Gillard.

1. Councillor Payne read the Opening Meditation.

AWARDS, CEREMONIES AND PRESENTATIONS

2. There were no awards, ceremonies or presentations.

ADOPTION OF MINUTES FROM PREVIOUS MEETING(S)

- #0073-20
3. Councillor Payne moved,
Councillor Mufandaedza seconded,

**That the Minutes of Council for the regular meeting of Monday,
April 27, 2020 be adopted.**

MOTION CARRIED UNANIMOUSLY

DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

4. There were no disclosures of pecuniary interest.



CORRESPONDENCE AND PETITIONS

5. There was no correspondence nor were there any petitions.

STATUTORY PUBLIC HEARINGS

6. There were no Statutory Public Hearings.

DELEGATIONS PERTAINING TO ITEMS ON THE AGENDA

7. There were no delegations pertaining to items on the agenda.

MEMBER STATEMENTS

8. There were no member statements.

INTRODUCTION AND CONSIDERATION OF COMMITTEE REPORTS

Governance and Priorities Committee Report for April 27, 2020

9. There was no business arising from this meeting.

Governance and Priorities Committee Report for May 4, 2020

10. Councillor Payne read a report of a meeting held on Monday, May 4, 2020 at 12:05 p.m. in the City Hall Council Chamber.

- #0074-20 11. Councillor Payne moved,
Councillor Mufandaedza seconded,

That Council approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a "Similar Use" to that of a Multi-Attached Dwelling at Lot 17, Block 80 (former Bartam site - 4024 School Draw Avenue).

Those opposed to the motion stated that they don't think that the building is a "Similar Use" to buildings in the Old Town and that an apartment building of this size on this site is not permitted within the OM zone under Zoning By-law No. 4404.

Those in favour of the motion stated that the *Community Planning and Development Act* and the Zoning By-law allow for "Similar Use". Those in favour further noted that both Multi-Family Dwellings and Multi-Attached Dwellings are similar in "purpose and character" in that they are multi-unit residential. Those in favour of approval felt



that the size and scale of the building is appropriate considering the proximity to the downtown core.

- #0075-20 12. Councillor Morse moved,
 Councillor Williams seconded,

That the motion be amended to include the following condition:

That the design, character and appearance of the proposed development must be compatible and complementary to the physical look and feel of Old Town.

Those opposed to the amendment noted the 2011 General Plan supports higher density at Lot 17, Block 80, which is referred as "Twin Pine Hill/Bartam" in the Plan. Those opposed to the amendment further stated that the support for higher density is established as the "Twin Pine Hill/Bartam" site is shown as Development Priority A and identifies it as a suitable location for up to 75 units. Those opposed to the amendment noted that the developer can take a number of steps and efforts to ensure that the building and development design is in keeping with the look and feel of Old Town.

Those in favour of the amendment noted that they would like to ensure that the building is designed in such a way that compliments the neighbourhood.

**MOTION TO AMEND DEFEATED
(Councillors Morgan and Morse in favour)**

**MAIN MOTION CARRIED
(Councillor Morgan and Morse opposed)**

NEW BUSINESS

13. There was no New Business for the Agenda.



ENACTMENT OF BY-LAWS

14. There were no by-laws for the agenda.

DEFERRED BUSINESS AND TABLED ITEMS

15. There was no deferred business and there were no tabled items.

OLD BUSINESS

16. There was no old business.

NOTICES OF MOTION

17. There were no notices of motion.

DELEGATIONS PERTAINING TO ITEMS NOT ON THE AGENDA

18. There were no delegations pertaining to Items Not on the Agenda.

ADMINISTRATIVE ENQUIRIES

19. In response to a question from Councillor Konge, Administration provided an update regarding the Aquatic Centre. Administration advised that it continues to work with the Bridging Consultant and Project Manager with respect to overall design and cumulative cost and noted that the City has requested an extension with respect to the Federal funding, of which the City is currently committed to spend by March 2023.
20. In response to a question from Councillor Konge, Administration advised that the City no longer uses As-and-When Contracts and uses Standing Offer Agreements instead. This allows the City to ensure the work is completed in a timely manner and spreads the work amongst local contractors. In response to further questions, Administration advised that local businesses may register on the City's Bids and Tenders webpage for various categories of service and will be notified when bidding opportunities arise.
21. In response to a question from Councillor Konge, Administration advised that it distributes landscaping work, related to water and sewer construction, amongst interested local contractors. Local contractors interested in this work are invited to contact the City.




ADJOURNMENT

- #0076-20 22. Councillor Williams moved,
 Councillor Mufandaedza seconded,

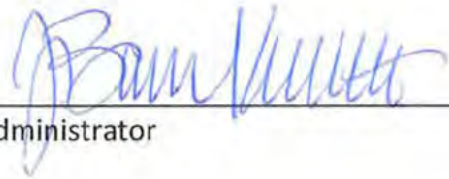
That the Meeting be adjourned at 8:29 p.m.

MOTION CARRIED UNANIMOUSLY





Mayor



City Administrator

Appendix E



CITY OF YELLOWKNIFE

MEMORANDUM TO COUNCIL (For Information Only)

DATE: May 11, 2020

DEPARTMENT: Administration

ISSUE: Considerations regarding a Conditionally Permitted Use (Similar Use) at Lot 17, Block 80 (4024 School Draw Avenue).

BACKGROUND:

On May 4, 2020 a Memorandum to Committee was presented to the Governance and Priorities Committee (GPC) regarding approval of a Conditionally Permitted Use (Similar Use) at Lot 17, Block 80 (4024 School Draw Avenue), the former Bartam Trailer Park. GPC members heard from the Developer, neighbourhood residents, and Administration. Subsequent to discussion at that meeting, at its May 11, 2020 meeting, GPC requested Administration to provide additional information on this issue.

1. Similar Use – how is this decision reached?

Both the *Community Planning & Development Act* and the Zoning By-law give Council authority to determine similar uses. It's essentially based on determining whether the proposed development is similar in nature to another use of land or building in the zone that is permitted.

Recognizing that not every situation could be contemplated in a zoning by-law, most legislation grants municipalities the ability to approve development with some flexibility. No by-law could ever be drafted to enumerate every possible specific or anticipated uses which mirror a proposed use. Some flexibility must be given to local authorities to decide if a proposed use is similar to the permitted uses in the by-law. The purpose of a 'similar use' category is explained in *Municipalities and Canadian Law: Defining the Authority of Local Governments*, Saskatoon, Purich Publishing, 1996 by F. Hoehn at page 254:

Land use bylaws are designed for normal, foreseeable situations and needs. No matter how carefully they are drafted, they cannot accommodate all the varieties of size, shape, and topography of lots; problems or innovations in construction; or the individual needs of all potential users and owners of land. As well, mistakes made by owners and builders may result in minor nonconformities that may be expensive to rectify after construction is complete. Insisting on compliance with the letter of the bylaw in all such

situations would often cause hardships that could not be justified by prejudice to either the intent and purpose of the bylaw to neighboring properties.

Were it not possible to obtain minor exemptions to the provisions of a zoning bylaw, an owner could apply for an amendment to the bylaw, but this might be difficult to obtain. Frequent requests for amendments would tax the time and resources of municipal councils. Even if a municipality were sympathetic with the plight of an owner facing needless hardship, a bylaw amendment offers at best a procedurally complex, time-consuming, and expensive remedy to the problem. It is for these reasons that most jurisdictions provide mechanisms for minor exemptions to the provisions of zoning bylaws, without requiring that the bylaw itself be amended.

2. Council's Role - when does Council discuss/impose conditions?

Council can discuss/recommend conditions when you approve the application (S. 3.4 of Zoning By-law) based on the merits of the application. At the Council meeting on Monday May 11, Council will have the opportunity to consider conditions as per S. 3.4.3 of the Zoning By-law. Later in this document, Administration provides background context and recommendations on conditionally permitted use, conditions that could be set by Council.

3. Alternative process – Amend the Zoning by-law?

This is an option and could be done in the following ways:

- (i) Amend the Conditionally Permitted Use section – add Multi-family dwelling
- (ii) Update definitions - so that presence/absence of an outside door isn't the defining factor
- (iii) Site Specific Zone - a change that allows that type of development on that lot only - but should only be used in exceptional circumstances (which don't exist in this situation).

However, in alignment with the comments in #2 above on re-zoning, the City has historically chosen to not use rezoning as a mechanism to permit individual development requests. Using the rezoning mechanism to accommodate individual development requests results in a patchwork of zones that are challenging to monitor and track, and that when multiple examples are enacted, cumulatively results in a neighborhood that "drifts" from the original intent of the General Plan.

On occasion, a site specific zone has been crafted to accommodate a proposed development such as the temporary worker's accommodation next to the Multiplex, site specific zoning for the hospital or the site specific zoning for the funeral home. Site specific zones are an applicable consideration when it involves a land use that the zoning by-law has not considered, or when the land use is too dis-similar to the permitted or conditionally permitted uses in the zone.

4. Powers - What powers does Council have regarding a conditionally permitted use?

2.4 Council

(1) Council shall:

(c) Make decisions and state any terms and conditions, as authorized by this by-law, for those uses listed as Permitted Uses and Conditionally Permitted Uses requiring a variance;

3.4 (2) In making a decision on an Application for a Development Permit for a Conditionally Permitted Use, Council:

- (a) May approve the application if the proposed development meets the requirements of this by-law, **with or without conditions**, based on the merits of the application, the *Community Planning and Development Act*, by-law or approved plan or policy affecting the site, or;
- (b) May refuse the application even though it meets the requirements of this by-law, or;
- (c) Shall refuse the application if the proposed development does not conform to this by-law, unless a variance has been granted pursuant to Section 3.5.

(3) In reviewing an Application for a Development Permit for a Conditionally Permitted Use, Council shall have regard to:

- (a) The circumstances and merits of the application, including, but not limited to:
 - i) The impact on properties in the vicinity of such factors as airborne emissions, odors, smoke, traffic and noise, sun shadow and wind effects;
 - ii) The design, character and appearance of the proposed development, and in particular whether it is compatible with and complementary to the surrounding properties, and;
 - iii) The treatment provided to site considerations including landscaping, screening, parking and loading, open spaces, lighting and signs.

As amended by By-law No. 4913 October 24, 2016

- (b) The purpose and intent of the General Plan and the applicable Area Development Plan adopted by the City.
- (c) The purpose and intent of any non-statutory plan or policy adopted by the City.

(4) Notwithstanding any provisions or requirements of this by-law, Council may establish a more stringent standard for a Conditionally Permitted Use when Council deems it necessary to do so.

5. Precedent - What has Council done historically around conditionally permitted use? What conditions has Council set in the past?

Date of GPC	Conditionally Permitted Use	Council Motion No.	Conditions Attached?
Aug 26, 2019	Child Care Facility – 5203-53 Street	0191-19	None.
July 22, 2019	Special Care Facility – 5023-49 th Street, Yellowknife Women’s Society	#0179-19	Valid until March 30, 2020 A Good Neighbour Agreement be implemented for the duration of their operation.
March 11, 2019	Cannabis Production Facility as a Similar Use	#0069-19	None.
May 27, 2019	Special Care Facility / Transitional Housing (Arnica Inn)	#0151-19	None.
May 27, 2019	Industrial Use (Brewery) at 4001 School Draw Ave	#0153-19	None.
October 22, 2018	Public and Quasi-Public Use (Mosque)	#0337-18	None.

June 25, 2018	Food/Beverage Service – Soul Foods on Old Airport Road	#0236-18	- direct Administration to determine the funding source for \$63,000 from the 2018 Budget, at the SAO's Discretion, to implement the City's portion of the traffic study recommendation to extend the left turn storage bay on Old Airport Road at Range lake Road in conjunction with the approval of Development Permit PI-2017-0434, - direct Administration to bring forward, during the 2020 Budget deliberations, an Area Development Plan for the impacted area due to the increase in current and potential development.
October 23, 2017	Food Services (Booster Juice) at 419 Byrne Rd	#0228-17	None.
September 25, 2017	Special Care Facility at (5111 50 th St)	#0206-17	That Administration be directed to work with the Dept of Health & Social Services / GNWT on the creation of a Safety and Security Plan
May 23, 2017	Dog Daycare Use at 138 Curry Dr	#106-17	None.
March 20, 2017	Temporary Similar Use (similar to Single Detached Dwelling); Block 501 (cabin construction)	#0052-17	A limited term until May 30, 2018
August 22, 2016	Temporary Workers Accommodation	#0221-16	A term of four years
July 11, 2016	Temporary Work Camp (near Fieldhouse)	#0170-16	1. Bird/Clark Joint Venture shall enter into a two-year lease agreement with the City for the required land with payment of \$10,000 environmental security deposit and municipal taxes as prescribed by the Fees and Charges By-law, and in lieu of lease fee the Joint Venture will be responsible for the site preparation cost, which is estimated to be \$562,429.85 with breakdown provided as follows: **Please see Special Council Minutes - July 11, 2016 for the table in the complete motion. 2. Bird/Clark Joint Venture shall enter into a Development Agreement with the City and provide a performance bond of \$20,000 for camp removal.
June 27, 2016	Hotel Use (adjacent to Arnica Inn – Slave Lake Inn)	#0146-16	None.
September 14, 2015	Temporary Storage as an Industrial Use (Lot 1 Block 553)	#0298-15	1) The maximum number of ATCO trailers stored on site is limited to seven (7); 2) The storage of seven (7) ATCO trailers is permitted for a maximum period of 1 year, commencing from the date of Council's resolution; 3) No further tree clearing shall occur on site without application and issuance of a Development Permit authorizing said clearing; and 4) All other applicable provisions of the Zoning By-law as required by the Development Officer.

August 24, 2015	Duplexes; Block 501	#0286-15	Direct Administration to complete the development permit review process for all applications with any appropriate conditions as per Zoning By-Law No. 4404 requirements.
August 24, 2015	Duplexes; Stevens Crescent	#0287-15	Approval of the side yard setback variance under Development Permit PL-2015-0208. Note: side yard setback variances are no longer approved by Council due to shifted priorities.
August 24, 2015	A golf course as a type of "Commercial Recreation"	#0252-15	None.
August 24, 2015	Food & Beverage Service at 335 Old Airport Rd	#0259-15	Conditions regarding provisions of the Zoning By-Law as required by the Development Officer.
January 26, 2015	Veterinary Clinic as an Animal Services Use at 308 Woolgar Ave	#0012-15	1) The proposed facility shall be operated as a "veterinary clinic" as defined under the Zoning By-law; 2) No overnight boarding shall be permitted unless it is medically necessary and no outdoor boarding or cremating at any time; 3) All other applicable provisions of the Zoning By-law as required by the Development Officer.
January 12, 2015	Duplex Use at 133 Hall Cres Duplex Use at 471 Hall Cres	#0007-15	"Direct Administration to complete the development permit approval process for both applications with any appropriate conditions as per Zoning By-law No. 4404 requirements"

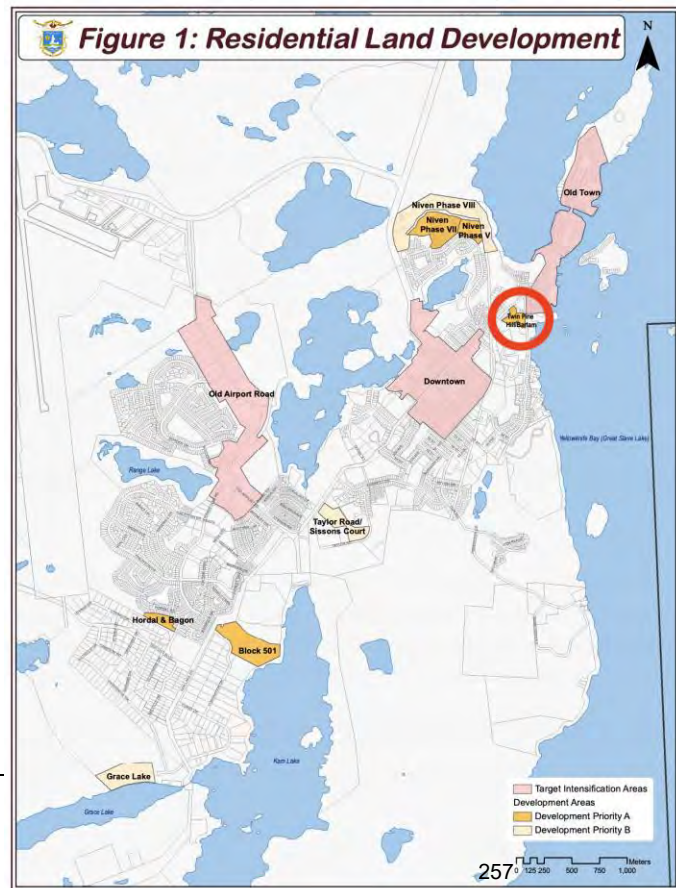
6. 2011 General Plan – what exactly does it say relevant to this proposed development?

Section 2.3.4 - Residential Land Development & Development Priority:

The 2011 General Plan supports higher density at Lot 17 Block 80, which is referred as "Twin Pine Hill/Bartam" in the Plan. The support for higher density is established as the "Twin Pine Hill/Bartam" site is shown as Development Priority A (see Figure 1) and identifies it as a suitable location for up to 75 units.

Section 3.5 - Mixed-Use Designation

Old Town has a Mixed-Use Designation, which is identified as representing a key element in the 2011 General Plan's strategy to accommodate and direct growth in the city. High density residential development is encouraged for developable land in the designation that falls within 120m of a transit-oriented development node. Low density development is discouraged. Heights can be increased or decreased to a certain extent.



Sections 4.2 Character Areas & 4.2.1 Old Town

The design of the proposed development should reflect the nature of the Old Town character area while balancing the call for higher density at the subject site.

Section 5.3 - Transit Oriented Development Nodes

The subject property falls within 120m of a transit stop, which means it is a Transit Oriented Development (TOD) node. Properties within TOD nodes are encouraged to have high to medium density.

7. Conditions for this proposed development at 4024 School Draw - What conditions would be appropriate for Council to place on this Conditionally Permitted use, should Council opt to approve it on Monday May 11th?

Section 3.4.3 of the Zoning By-law speaks to the conditions Council can consider when approving a Conditionally Permitted use. The most important condition is the requirement that the design, character and appearance of the proposed development must be compatible and complementary to the physical look and feel of Old Town. The majority of all public comments submitted to date have focused on building design and the lack of compatibility with the Old Town neighborhood. The developer can take a number of steps and efforts to ensure that the building and development design is in keeping with the look and feel of Old Town.

In reviewing an Application for a Development Permit for a Conditionally Permitted Use, Council shall have regard to:	Proposed Conditions
The impact on properties in the vicinity of such factors as airborne emissions, odors, smoke, traffic and noise, sun shadow and wind effects	<p>A traffic impact study to inform the final location of vehicle access and egress points and to identify any off-site road and pedestrian infrastructure improvements that are required to accommodate the proposed development.</p> <p>A report showing the effect of sun shadow produced by the proposed development.</p>
The design, character and appearance of the proposed development, and in particular whether it is compatible with and complementary to the surrounding properties	The design, character and appearance of the proposed development must be compatible and complementary to the physical look and feel of Old Town.
The treatment provided to site considerations including landscaping, screening, parking and loading, open spaces, lighting and signs	<p>The landscaping plan must be comparable and compatible with the landscaping aesthetics in Old Town. The landscaping plan should consider preservation of mature trees, plant species typical of the Northern Boreal Forest, and a focus on reclamation and revegetation rather than manicured gardens.</p> <p>A landscaping buffer must be used to screen the parking area from pedestrians and School Draw Avenue.</p>

	<p>Parking lots must be broken into smaller groupings and no individual parking lot may exceed 40 parking stalls.</p> <p>Building and site lighting must be comparable and compatible with the lighting aesthetic in Old Town.</p> <p>Building signage must not be illuminated.</p>
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COUNCIL POLICY / RESOLUTION OR GOAL:

- Council Goal #4 Driving strategic land development and growth opportunities
- Objective 4.1 Diversify development options
- Objective 4.2: Promote development across the City

APPLICABLE LEGISLATION, BY-LAWS, STUDIES, PLANS:

1. Community Planning and Development Act, S.N.W.T. 2011;
2. General Plan By-law (2011) No. 4656, as amended;
3. Zoning By-law No. 4404, as amended.

ATTACHMENTS:

Applicable legislation (DM#608778)

Prepared: May 11, 2020; KLP/klp

APPLICABLE LEGISLATION

Community Planning and Development Act S.N.W.T. 2011,c.22

The *Community Planning & Development Act* essentially establishes the framework for a City to regulate development within its boundaries.

Section 3 of the Act sets out the **Purpose of a Community Plan** as follows:

3. (1) The purpose of a community plan is to provide a policy framework to guide the physical development of a municipality, having regard to sustainability, the environment, and the economic, social and cultural development of the community

Section 12 establishes the **purpose of a Zoning By-law**:

12. (1) The purpose of a zoning bylaw is to regulate and control the use and development of land and buildings in a municipality in a manner that conforms with a community plan, and if applicable, to prohibit the use or development of land or buildings in particular areas of a municipality

Section 22 specifically address the establishment of a similar use category in a zoning by-law:

22. A zoning bylaw may authorize a development authority, on an application for a development permit, to

(a) determine whether or not a specific use of land or a building, that is not provided for in the bylaw with respect to a zone, is similar in character and purpose to another use of land or a building that is included, in accordance with paragraph 14(1)(c), in the uses specified in the bylaw for that zone; and

(b) treat an application involving a similar use in the same manner as an application for a development permit in respect of a use referred to in subparagraph 14(1)(c)(iii) or (iv).

Section 14 addresses the situation that the City of Yellowknife will soon be in where a Community Plan has been adopted and there are inconsistencies with the Zoning By-law.

14. (5) Notwithstanding subsection (4), if a zoning bylaw conflicts with an amendment to a community plan, the amendment to the plan is deemed to come into effect on the earlier of

(a) the effective date of an amendment to the bylaw that conforms with the amendment to the plan; and

(b) the day that is six months after the day the amendment to the plan comes into Effect

ZONING BY-LAW NO. 4404

Zoning By-law No. 4404 defines “similar use” as “development deemed by Council to be similar in nature to a permitted or conditionally permitted use”;

“conditionally permitted means a use listed in a use” conditionally permitted use table that may be permitted by Council after due consideration is given to the impact of that use upon neighboring land and other lands in the City, subject to section 3.4;

2.4 Council

(1) Council shall:

(c) Make decisions and state any terms and conditions, as authorized by this by-law, for those uses listed as Permitted Uses and Conditionally Permitted Uses requiring a variance;

3.4

(2) In making a decision on an Application for a Development Permit for a Conditionally Permitted Use, Council:

(a) May approve the application if the proposed development meets the requirements of this by-law, **with or without conditions**, based on the merits of the application, the *Community Planning and Development Act*, by-law or approved plan or policy affecting the site, or;

(b) May refuse the application even though it meets the requirements of this by-law, or;

(c) Shall refuse the application if the proposed development does not conform to this by-law, unless a variance has been granted pursuant to Section 3.5.

(3) In reviewing an Application for a Development Permit for a Conditionally Permitted Use, Council shall have regard to:

(a) The circumstances and merits of the application, including, but not limited to:

i) The impact on properties in the vicinity of such factors as airborne emissions, odors, smoke, traffic and noise, sun shadow and wind effects;

ii) The design, character and appearance of the proposed development, and in particular whether it is compatible with and complementary to the surrounding properties, and;

iii) The treatment provided to site considerations including landscaping, screening, parking and loading, open spaces, lighting and signs.

As amended by By-law No. 4913 October 24, 2016

(b) The purpose and intent of the General Plan and the applicable Area Development Plan adopted by the City.

(c) The purpose and intent of any non-statutory plan or policy adopted by the City.

(4) Notwithstanding any provisions or requirements of this by-law, Council may establish a more stringent standard for a Conditionally Permitted Use when Council deems it necessary to do so.

(5) A development permit may be issued on a temporary basis for a period specified by the Development Officer or Council as required by this by-law.

(6) For the purposes of this section, **if a proposed use of land or building is not listed as a Permitted or Conditionally Permitted Use in this by-law, Council may determine that such a use is similar in character and purpose to a use permitted in that zone and may allow the development as a Conditionally Permitted Use.**

3.8 (4) Subject to this by-law, the *Community Planning and Development Act*, and any statutory plan approved pursuant to the Act, **Council may attach whatever conditions it considers appropriate to a development permit for a Conditionally Permitted Use**, including but not limited to the following:

- i) Noise attenuation;
- ii) Smoke and odor attenuation;
- iii) Special parking provisions;
- iv) Location, appearance and character of building;
- v) Retention of natural terrain and vegetation features, and
- vi) Ensuring that the proposed development is compatible with surrounding land uses.

10.18 OM - Old Town Mixed Use

(a) Permitted Uses are:

Accessory decks,
Commercial use,
Office,
Single detached dwelling subject to Section 10.18(5)(a),
Duplex dwelling subject Section to 10.18(5)(a),
Mixed use,
Child care facility,
Multi-attached dwelling subject Section to 10.18(5)(a),
Planned development subject to Section 7.1(9),
Home based business,
Temporary activities subject to Section 7.1(6),
Accessory structures and uses.

(b) Conditionally Permitted Uses are:

Diamond facility,
Food/beverage service,
Hotel,
Industrial use subject to Section 7.6,
Motel,

Lake use,
Parks and recreation,
Public and quasi-public uses,
Public utility uses and structures,
Special care facility, and
Similar use.

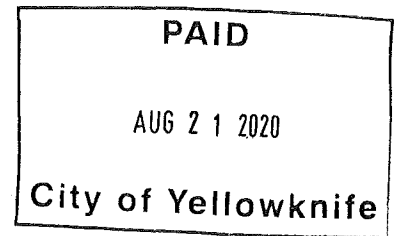
(c) Prohibited Uses are:

Outside storage as a principal use.

AUG 21 2020

Received

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
4807 - 52 Street
P.O. Box 580
Yellowknife, NT X1A 2N4



August 20, 2020

Dear Board Members

Re: Intended Development: Multi-Family Dwelling Lot 17 Block 80, Plan 4462

I am appealing the decision of City of Yellowknife Development Officer to approve a Multi-Family Dwelling and a varied development of the Zoning By-law 4404 at 4024 School Draw as described in Development Permit PL-2019-0168. I am opposed to the decision of the Development Officer and argue that the proposed four-story, 65 unit apartment complex on School Draw Avenue would substantially interfere with the current use, enjoyment and Old Town character of nearby neighbourhoods.

I am a home owner in Willow Flats adjacent to the School Draw area. I believe this new development will adversely affect the Old Town neighbourhood where I have chosen to live for the past three decades. The quiet, residential area of Willow Flats is an enjoyable and peaceful part of the City that I appreciate, respect and value. The human and natural history and cultural heritage of the Old Town needs to be recognized and protected. This includes public access to nature trails and promotion of the heritage value of historic buildings, businesses and places. A high-density apartment complex on School Draw is incompatible with the uniqueness of the adjacent Old Town locale.

Clearly, the sheer size and height of the building does not conform with the Old Town Mixed use defined by current by-laws linked with the (2011) City of Yellowknife General plan. The approval of a 45.8% height variance to build four stories from an allowable height of three stories, far exceeds what is acceptable in the current Old Town Mixed zoning plans.

I am strongly opposed to the sheer size of the building and increased density of people this will create as a result of this development. I believe this increase will adversely impact the distinctive character of Old Town neighbourhoods of School Draw, Peace River Flats and Willow Flats with associated increases in parking congestion, traffic, noise, and light. These impacts will unquestionably detract from the current peaceful environs and beauty of Twin Pine Hill and Rotary Park which are areas defined by trails and nature, enjoyed by all residents. The distinct character of Old Town is linked to a unique physical environment, history and heritage and is

worth protecting from a development such as the proposed massive apartment complex development.

I believe the City of Yellowknife Development Office and other officials including the Mayor, Council and Administration have gravely erred in their judgement and decision to accept that an apartment dwelling with 65 units is a "similar use" to permitted uses for the area such as townhouses. Multi-family buildings are unmistakably not at all similar in nature to multi-attached dwellings. They are obviously different in size, structure, massing and density. The zoning by-law does not allow apartment buildings as a permitted nor conditionally permitted use of the Old Town Mixed Use zone.

For the reasons described above, I am submitting this letter of appeal to the Development Appeal Board. In sum, I believe the Council Motion # 0074-20 "That Council approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as "Similar Use" to that of a Multi-Attached Dwelling at Lot 17 Block 80 (former Bartam site – 4024 School Draw Avenue) will adversely affect the adjacent Old Town neighbourhoods and is in contravention of the current zoning By-law 4404.

Sincerely

Barb Cameron
Bryson Drive
Yellowknife
X1A 1Z9

Development Appeal Board
c/o Debbie Gillard, Secretary of the Appeal Board
City Clerk's Office
City of Yellowknife
4807 - 52 Street
P.O. Box 580
Yellowknife, NT
X1A 2N4

September 10, 2020

Barb Cameron

Dear Development Board Members

Re: Intended Development: Multi-Family Dwelling Lot 17 Block 80, Plan 4462

Please accept this letter and drawings in support of my Appeal of the Development Permit #PL-2019-0168 issued on August 11, 2020 to approve a Multi-Family Dwelling and a varied development of the Zoning By-law 4404 at Lot 17, Block 80, Plan 4462 4024 School Draw. I am opposing the decision of the City Council to approve a Conditionally Permitted Use for a variance which allows a 45.8% height increase to build a four-story apartment complex. I disagree of the approval of Council to conditionally permit this development using the Similar Use application in their comparison to assert that a Multi-Family dwelling is "similar in nature" to that of a Multi-Attached dwelling. I also believe the Development Permit issued does not reflect the intention of By-Law 4404 to maintain the unique character of Yellowknife's Old Town environs.

1. "DIFFERENT SPECIES"

Multi-Family Dwellings and Multi-Attached Dwellings are not Similar Use


Similar Use is defined in By-law 4404 as follows: "means development deemed by Council to be similar in nature to a permitted or conditionally permitted use." Multi-family buildings are not comparable in nature to multi-attached dwellings. They are different species.

This proposed apartment dwelling with 65 units is not similar in nature to any other residential dwelling located in Old Town neighbourhoods. For example, when comparing the proposed 65-unit apartment to existing 8-unit condos at 3502 McDonald Drive, and to the 3-unit Tri-plex at 3512 McDonald Drive, it is remarkably dissimilar and unmistakably different in size, structure, massing and density.

These points are illustrated in the two graphics below. The first drawing shows a likeness between cats and dogs; however, they remain different species. It also depicts significant differences in height, length, number of units, square footage and type of entry between the proposed development and the existing 8-unit condo at 3502 McDonald Drive.

Illustration I: Dogs and Cats

SOME THINGS ARE SIMILAR
(DO YOU KNOW A DOG FROM A CAT?)



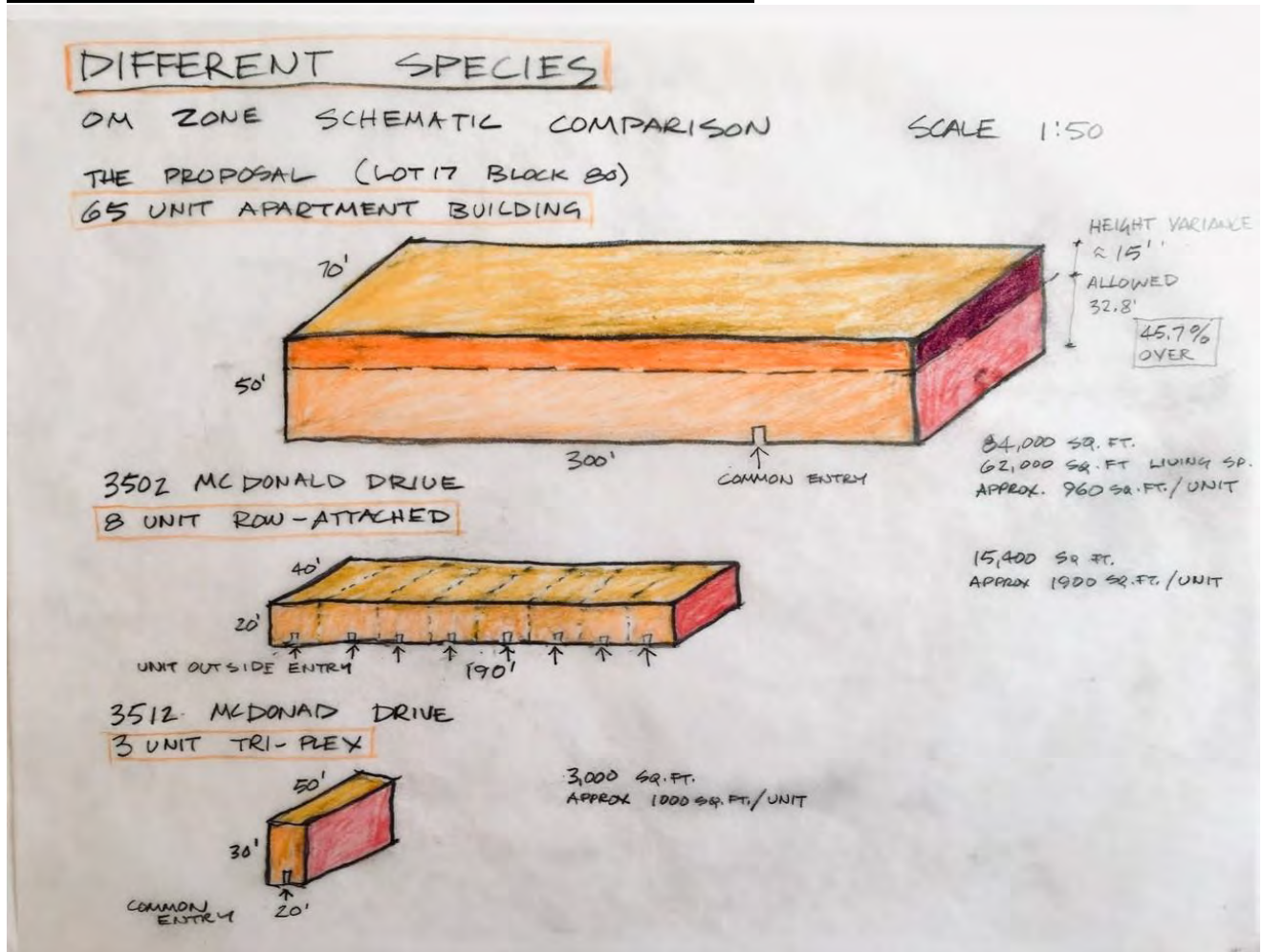
LEGS	4	4	100%	YES
EARS	2	2	100%	YES
CLASS	MAMMAL	MAMMAL	100%	YES

	PROPOSAL	EXIST'G 8 UNIT		
USE	RESIDENTIAL	RESIDENTIAL	100%	YES
HEIGHT	50'	20'	250%	NO
LENGTH	300'	190'	160%	NO
UNITS	65	8	810%	NO
TOTAL SQ. FT.	84,000	15,400	545%	NO
ENTRY	COMMON	INDIVIDUAL	X	NO

BECAUSE THEY HAVE THE SAME NUMBER OF LEGS
THEY ARE NOT SIMILAR
THEY ARE:
DIFFERENT SPECIES

The second graphic also illustrates the “different species” argument with a comparison of the proposed unit and two other residential units located in Old Town.

Illustration II: OM Zone Schematic Comparison. 1:50 scale.



2. CONTRAVENING ZONING BY-LAW 4404

The proposed four-story, 65-unit apartment complex should not be accepted as a permitted use according to current By-law 4404. Current zoning by-laws in place to guide new developments do not allow apartment buildings as a permitted nor do they allow conditionally permitted use of the Old Town Mixed Use zone. Therefore, there has been a clear misapplication of the zoning By-law.

Size and Character Matters

The enormity of size and height of the proposed building does not conform with the Old Town Mixed use defined by current By-laws. The approval of a 45.8% height variance to build four stories from an allowable height of three stories, far exceeds what should be an acceptable level of increase in reference to the current By-Law 4404 and the Community Plan. It does not seem reasonable that a variance of this size should be permitted because it creates a much

bigger, high density residential structure. This in turn, will materially interfere with the use and value of neighbouring properties. Variances can only be permitted (s 3.5 of By-law 4404) if the variance would not interfere with amenities of the neighbourhood, or materially interfere with the use or value of neighbouring properties.

I am a home owner in Willow Flats adjacent to the School Draw area. I believe this new development will adversely change the quiet Old Town neighbourhood where I have purposely chosen to reside for the past thirty-five years.

Note that By-Law 4404 has not been amended to conform to the updated Community Plan. This By-law specifically includes the importance of design, character and appearance be comparable with surrounding environs to help preserve the unique character of Old Town. The distinct character of Old Town relates to a unique physical environment, interconnected to a distinctive human and natural history and heritage.

A high-density apartment complex on School Draw would be incompatible with other buildings and residences in adjacent Old Town neighbourhoods. The sheer size of the building and increased concentration of people will create a high-density residential area which clashes with the current low-density residential setting. This change will negatively impact the distinctive character of adjoining Old Town neighbourhoods of School Draw, Peace River Flats and Willow Flats with associated increases in parking congestion, traffic, noise, and light. These impacts will adversely detract from the peaceful surroundings and beauty of Twin Pine Hill and Rotary Park which are defined by nature trails, boardwalks, waterfront and green space, enjoyed by all Yellowknife residents and visitors.

For the reasons expressed above, I argue that this Appeal be accepted, the Development Permit be revoked and that the proposed development be revised to comply with current requirements found in By-law 4404.

Sincerely

Barb Cameron

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
4807 – 52 Street, (City Hall)
P.O. Box 580,
Yellowknife, NT X1A 2N4

Alan and Miki Ehrlich
Bryson Drive
Yellowknife, NT X1A 2A1

August 24, 2020

Dear Development Appeal Board Members,

Re: Appeal of PL-2019-0168 Proposed Apartment Building

Please accept this appeal of the development permit PL-2019-0168 (65 unit apartment complex on School Draw Ave. at the Bartam Court site in Old Town). With respect to our eligibility to appeal, we live near the development and will be directly affected by it.

We believe that City Council made an error in declaring the proposed use to be a “similar use” to the conditionally permitted uses in zoning by law No. 4404.

It was unreasonable for Council to conditionally permit this huge building at this site, because:

- 1. An apartment building is not a “similar use” to the permitted uses for the area. It is not “similar in nature” to them. It is really different from “multi-attached dwellings” in size, density, style, and massing (shape and form) from townhouses or rowhouses.**
- 2. It would clash with the setting and surrounding buildings along School Draw Ave.**
- 3. Council is obligated to respect the spirit of the City of Yellowknife’s current by-law, which is designed to protect the character of Old Town.**
- 4. Permitting this would contradict the City of Yellowknife’s own published principles in the general plan update.**
- 5. This development would further diminish the beauty of Twin Pine Hill.**

The reasons for each of these conclusions are as follows:

- 1. This is not “similar in nature” to a permitted or conditionally permitted use**

The zoning by-law¹ does not include apartment buildings as a permitted nor conditionally permitted use of the Old Town Mixed Use zone. The conditionally permitted uses list does include “similar use”, which is defined in the by-law to mean “similar in nature”.² This refers to uses that are similar in nature to the permitted uses. The only permitted use that is remotely similar would be a “multi-attached dwelling subject Section to 10.18(5)(a)”, which refers to townhouses.

A large apartment building is very different from a row of townhouses. They look different and feel different. Townhouses look like individual houses, and often have their own greenspace and ground floor entrances. In shape and form, they would fit in better with surrounding houses than a large apartment building would. **Townhouses also have much lower density.** The proposed 65 units is drastically different from the number of townhouse units the site would likely contain. This also changes how they feel, and their infrastructure needs (including parking, traffic, noise, lighting and sewerage), and how they interact with the surrounding neighbourhood.

None of the types of developments that are listed as “similar uses” in the by-law have this density. **Density matters because the development will roughly double the density of this area.** Sixty-five new units is more households than there are in all of Willow Flats. It is also more households than all of Peace River Flats. The area, including School Draw Ave., will presumably be twice as busy, twice as noisy, and have twice as much traffic. **This would directly affect us,** our kids and our community as residents of Willow Flats.

2. An apartment building would clash with the surroundings

In the by-law, “similar in nature” means similar to listed uses, but does not mean similar to buildings nearby. We encourage you to reject the argument that city staff have made that the Nova Group’s Slave Lake Inn is the same in nature, because of its’ location. It is on Franklin Ave., the main road, and not along School Draw Ave. Franklin is the approach to downtown from Old Town. It is busier, and becomes more urban as you go up the hill. School Draw is a quiet, scenic winding road between the lake and the shield. **The closest structures on School Draw would be absolutely dwarfed by the proposed apartment building,** which at 87m (285 feet) is the length of approximately three blue whales (!) and is almost 50 feet high.

The length is important because it serves as a multiplier of the 15 foot height variance. The resulting building volume is four-hundred and eighty seven thousand cubic feet- comparable to some of the largest apartment buildings downtown. In this deliberation, size matters.

¹ Zoning By-law No. 4404 s.10.18 (p10-65)

² Zoning By-law No. 4404 definitions pI-34

3. The General Plan deserves respect

The current General Plan is a carefully crafted plan based on considerable public input and wise decision making. It identifies the character of Old Town as something worth protecting. It is the heritage of the city. The numbers of tourists who flock to this area likely would agree. **The Development Appeal Board should respect the permitted uses in the by-law, which are chosen to protect the character of Old Town.**

The way Old Town feels depends on how it is developed. A huge apartment on School Draw would drastically change the character of Willow Flats (our neighbourhood) and would be a step in the wrong direction for preserving the distinct character of Old Town. Once that character is lost, you cannot get it back. Losing this would also affect us directly as residents of Old Town.

4. Permitting this would contradict the City of Yellowknife's own published principles.

The City's own materials clearly support these points. In the City's publication on Intensification Compatibility,³ the City's Planning and Development Department emphasizes that "Intensification introduces new development into existing areas and **requires a sensitive approach and consideration of the area's established characteristics**". It speaks of "**ensuring the compatibility of new development with existing community character**".

The same document recommends:

- "New buildings should have regard for the height and massing of adjacent buildings".
- "Proposed development should consider the character of surrounding buildings".

We urge the Development Appeal Board to uphold the City's own published guidance. We recognize that changing the By-Law following the recently revised Community Plan will require more public engagement. We believe this public participation will be important to ensure that residents' views are heard and considered fairly.

5. This development would further diminish the beauty of Twin Pine Hill

The feeling of Old Town depends in part on its surroundings. The rugged northern beauty of Twin Pine Hill is the backdrop for this neighbourhood. The proposed building, seen from School Draw, would be a relatively flat wall, similar in architecture to the Nova Hotel. At 50

³ City of Yellowknife, Planning and Development Department. <https://www.yellowknife.ca/en/doing-business/resources/General%20Plan/3Presentation-Board-Intensification-Compatibility.pdf>

feet high and 285 feet long, the proposed apartment building **would block Willow Flats** and Rotary Park from much of the natural beauty of Twin Pine Hill.

The City, when approving the condos on top of Twin Pine Hill, gave public assurances that it would do everything it can to protect the character of this natural gem inside the city. **Because of it's size and shape, the proposed apartment building would diminish Twin Pine Hill significantly more** than the listed permitted uses.

Relief sought: We urge the Development Appeal Board not to allow the variance in height. If the developer were to build actual townhouses (the "multi-attached dwelling subject Section to 10.18(5)(a)" of the by-law) without varying the requirements of the Zoning By-Law, that would better fit the location and would be a much less drastic change to density of the area in and around Willow Flats. We would likely support such a development on the site.

In conclusion, we hope that you carefully consider each of the above points. To summarize, a large apartment building does not fit with the character of Old Town and is not "similar in nature" to townhouses (multi-attached dwellings). They look different, they feel different, have very different densities, and interact differently with the surrounding neighbourhood. The large variance in height (of almost 50%) that would be required is evidence of how dis-similar this development is to the rest of Old Town. There are clear reasons not to allow this variance. Bartam Court is the wrong site for a large apartment building.

Thank you,

The image shows two handwritten signatures in black ink. The signature on the left is more stylized and appears to be 'Alan', while the signature on the right is more legible and appears to be 'Miki Ehrlich'.

Alan and Miki Ehrlich

Appeal of Development Permit PL-2019-0182



Outline

1. Apartment building \neq townhouse or rowhouse
2. Doubling the density of the area
3. Clash with the setting
4. Conflicts with by-laws
5. Conflicts with City's published principles
6. Further diminishes Twin Pine Hill

Not “similar use”

- Apartment buildings are not a permitted, nor conditionally permitted, use of the Old Town Mixed Use zone.
- “Similar use” means “similar in nature” (Zoning By-law No. 4404 definitions pl-34)
- “Multi-attached dwellings subject to Section 10.18(5)(a)” means townhouses and rowhouses

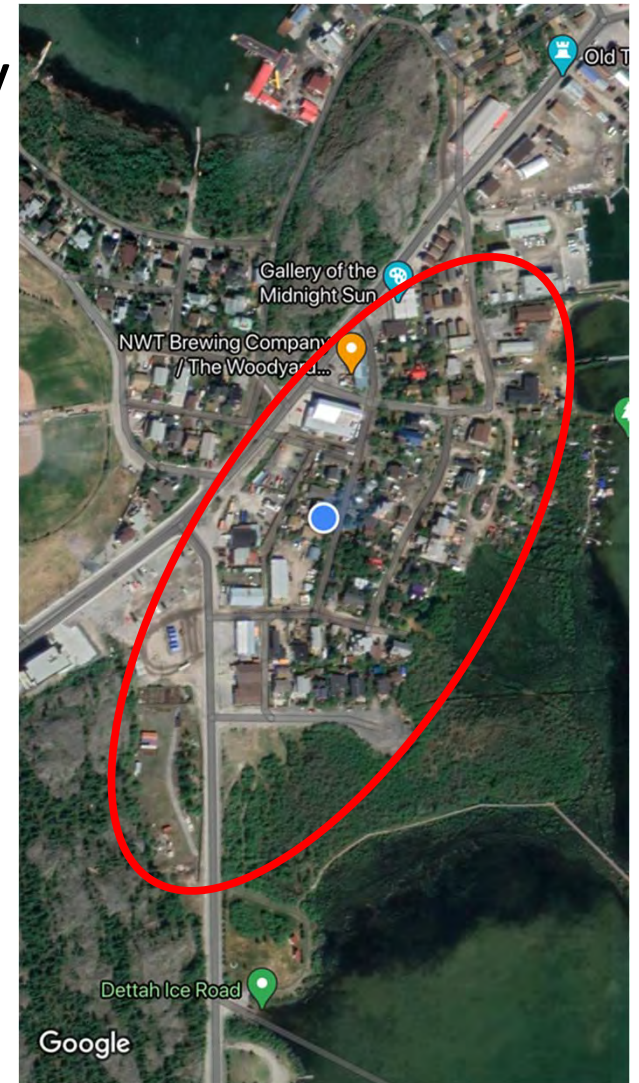
A large apartment building is no townhouse

- They look different
 - Different size, density, style and massing
- Townhouses:
 - look like individual houses
 - often have their own greenspace and ground floor entrances
 - would fit much better with the neighbourhood



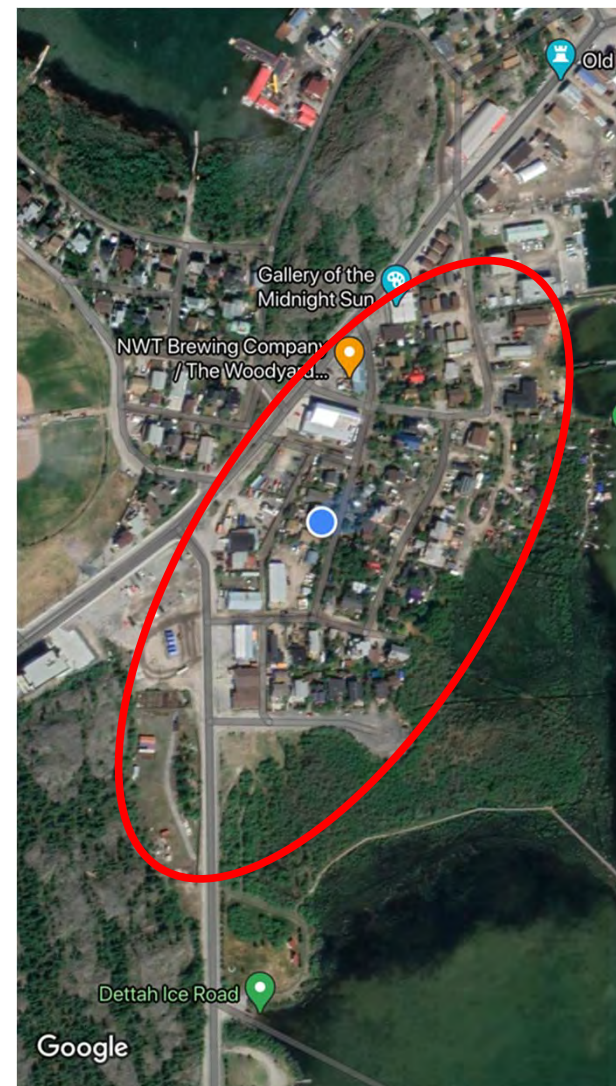
Townhouses have lower density

- Site would never fit 65 units in townhouses
- No listed “similar uses” have the density proposed
- Proposed development will **more than double the density** of the area
- 65 units is more than all of Willow Flats!



Doubling the density

- Twice the density means:
 - **Twice as busy**
 - **Twice as noisy**
 - **Twice as much traffic**
- City should have talked with the surrounding neighbourhood before deciding to double the density



Huge building clashes with the setting

- School Draw Ave. is a quiet scenic road
- Closest structures on School Draw would be dwarfed
- Proposed apartment building is **285 ft long** x 50 ft tall
- The proposed variance of 15 ft of height has a greater impact because building is so long ($15' \times 285' = \mathbf{4,275}$ sq ft)
- Volume is comparable to some of the largest buildings downtown





The character of Old Town is worth protecting

- It's why we've chosen to live there
- Board should **uphold the permitted uses in the current by-law**, chosen to protect the character of Old Town
- A huge apartment building on School Draw would drastically change the character of Willow Flats
- This is a step in the wrong direction for Old Town
- **The size of the variance (over 45%) is evidence of how badly this development fits into Old Town.**









Photo: NNSL



“Intensification introduces new development into existing areas and **requires a sensitive approach** and consideration of the area’s established characteristics”.

“Proposed development should **consider the character of surrounding buildings**”

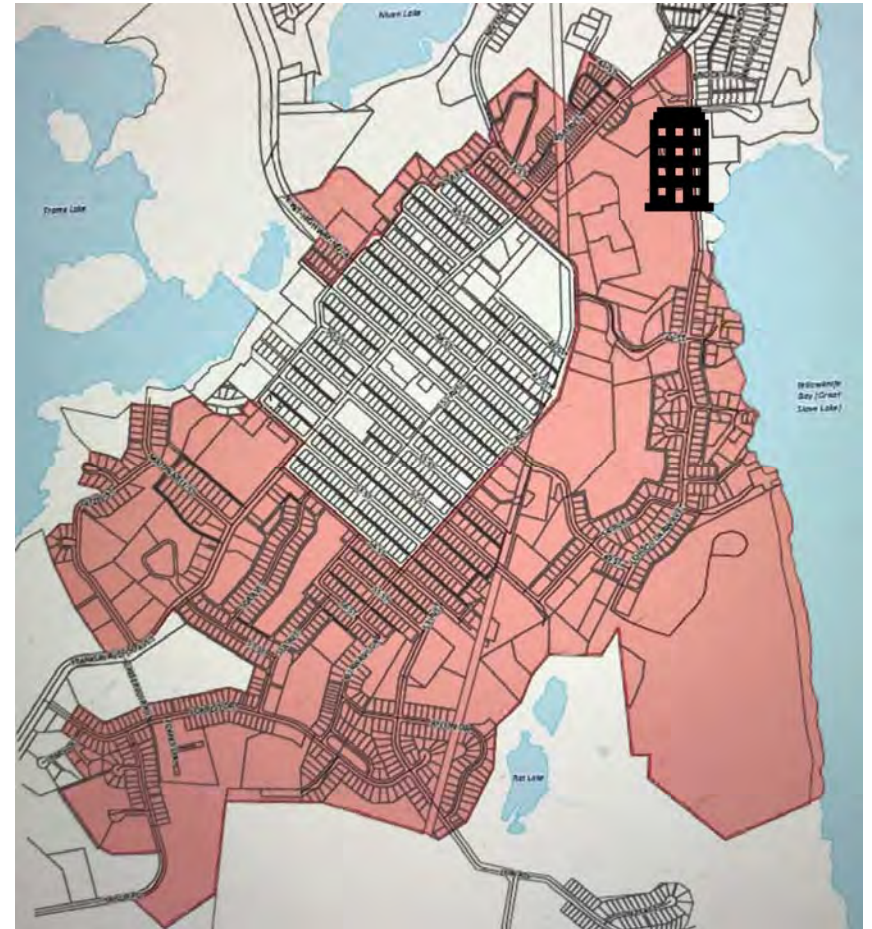
“New buildings should **have regard for the height and massing** of adjacent buildings”

“ensuring the **compatibility** of new development with **existing community character**”

Publication on Intensification Compatibility
Planning and Development Department
City of Yellowknife

Council did not follow the current by-law (4404)

- This site was designated Old Town Mixed-Use (in by-law 4404) when Council approved the development.
- Lot is on the extreme periphery of the “Downtown-Central Residential” zone in the Community Plan (about 8 m from the edge) (By-law 5007).
- In reality, map lines don't exist on the ground. There is no buffer. To someone there, it is Old Town.



By-law 5007 says: Consult

- Section 6.7 of By-law 5007 says “**It is crucial that the public is informed and consulted**, as appropriate, on various planning proposals”
- To meet the spirit of the new by-law, Council should therefore consult with the Willow Flats community at large **before** doubling the density.
- **The public that was consulted left out most of the surrounding community**
- Council must not presume the outcome of future consultations by approving this major development beforehand.

Diminishing the beauty of Twin Pine Hill

- Feeling of Old Town depends on its surroundings
- Rugged northern beauty of Twin Pine Hill is the backdrop for our neighbourhood
- Proposed building is a large, relatively flat wall, like Chateau Nova
- At 50' high, it will block Willow Flats and Rotary Park from Twin Pine Hill
- Size and shape are a problem for this setting



In summary...

- Large apartment building does not fit character of Old Town
- Not “similar in nature” to townhouses / multi-attached dwellings
 - it looks different
 - it feels different
 - different density
 - interacts differently with surrounding neighbourhood
- This is the wrong site for a large apartment building
- Board should therefore:
 1. reject the height variance, and
 2. reject Council’s approval of the development, because this is not a “similar use”



August 24, 2020

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
4807 52 Street
PO Box 580
Yellowknife, NT X1A 2N4

Appeal Re: Approval of Development Permit Application No. PL-2019-0168 for a proposed development on Lot 17 Block 80 Plan 4462.

As residents directly affected by the above-noted approval, we appeal based upon:

1. We, as well as others in Yellowknife, will be adversely affected by the development, as approved. Specifically,
 - a. The approved development will increase the immediate neighbourhood from six single-family houses to include a monolithic and overwhelming 65-unit apartment building requiring a 45.8% variance that will, amongst other things:
 - i. Create off-site parking issues and traffic congestion.
 - ii. Completely alter the visual landscape of the neighbourhood through the blocking of the rock outcrop, a hallmark of the Yellowknife landscape.
2. There was a misapplication of the zoning by-law.
 - a. Specifically, By-law 4404 does not permit multi-family structures within the zone and there is no legitimate *Similar Use* comparator within the zone;
3. The proposed development contravenes By-law 4404;
 - a. Although the City has recently received Ministerial approval for and adopted a new general plan, application of that plan is dependent upon change to zoning by-law 4404, change has not yet been introduced for public discussion. Approving a non-conforming development at this stage simply ignores the existing by-law and presumes an unknown outcome.
4. The development permit has been approved based upon the discretion of the planning officer.
 - a. The planner has indicated, with no supporting documentation, that it is *"the opinion of the Development Officer that an increase in height would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land."*

5. The development has been approved on the basis of *Similar Use* based on either a multi-attached or a single non-conforming 3-unit multi-family structure within the zone.
 - a. The existing by-law does not permit multi-family dwellings within the zone and the application of *Similar Use* is incorrect.

6. The development has been approved under circumstances where the proposed development does not conform with the existing by-law.
 - a. As stated above, the approval is based upon a faulty *Similar Use* argument.

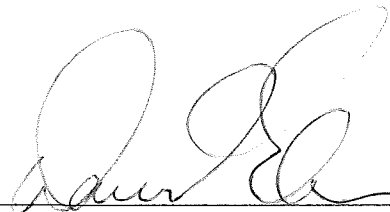
It is requested that the Development Appeal Board revoke the development permit approval, as submitted, and require that further application comply with the by-laws in force at the time of application.

We understand that health safety concerns raised by the COVID-19 issue create hearing logistics issues. Acknowledging that prudent practices are called for in the age of the COVID-19 virus, we respectfully request that the Appeal Board hearing be conducted in person in a suitable sized facility permitting appropriate distancing. A hearing of this importance for the future of a Yellowknife neighbourhood should be held in person and not by using the unfamiliar and intimidating web-casting system that has become common for routine business.

Respectfully,



Pamela Dunbar



David Gilday

Appeal Board Submission
Re: Development Permit Application No. PL-2019-0168

Pam Dunbar and David Gilday

We'd like to start by thanking the Appeal Board for taking the time to hear the concerns of the residents affected by the recently approved development, a multi-family, 65 unit apartment building on lot 17, block 80, plan 4462, an area governed by Bylaw 4404.

Preamble:

During this presentation we will refer to two General Plans. The proposal was unveiled to the community under General Plan By-law 4656. That plan was put into force through specific By-laws that have seen revisions over the years. All decisions concerning this development should have been made following that General Plan and the enabling By-laws. On July 27, 2020 Community Plan Bylaw 5007 passed. As described in 5007, "*The purpose of the 2019 Community Plan is to create a policy framework that sets out a vision for the future growth and development of Yellowknife over the next 20 years.*" General Plans are implemented through the adoption of By-Laws designed to meet the vision and goals of the municipality. As there have been no by-law changes subsequent to the adoption of 5007, existing by-laws remain in effect, specifically Zoning By-law 4404.

Note is made that the drawing submitted for development permitting is dated April 23, 2019 and was revised to move the building location on March 18, 2020 both under the 2011 General Plan and enabling bylaws. Oddly, the drawing provided was for Lot 14 Block 78, Plan 91098, the site designation before the consolidation of several lots to create the current lot.

We are appealing the approval of this multi-family development that is not in compliance with City By-laws as residents of Lundquist Road adversely affected by Development Permit Application No. PL-2019-0168.

Similar Use

We'll start this presentation at the acceptance by City Council of a proposal that is non-conforming within the planning zone. It is simply fact that there is no provision for a multi-family structure permitted under By-law 4404 in this area. In order to get around that, Council has relied upon the term Similar Use to permit the proposal. We believe City Council misapplied the Similar Use option in the by-law. This proposal is definitely not similar in size or character to any other structure located in this zone. In order to understand what Similar Use means we asked the City for clarification and received this response from the Manager, Planning & Lands Division:

"No specific building was used as a comparable to reach a decision on the Similar Use, nor is there any instruction or regulation in the zoning bylaw indicating that a specific or direct building comparison must occur.

"Similar Use" is defined in the zoning bylaw as "means development deemed by Council to be similar in nature to a permitted or conditionally permitted use"."

Not requiring any objective criteria, it appears Similar Use is just about anything Council or the planning department says it is.

Because the definition of Similar Use is contained in By-law 4404, one reasonably expects it to relate to developments, permitted or conditionally permitted, in the specific zone under the by-law, not to some structure in another part of the city. To be clear, multi-family dwellings are not included in the Old Town Mixed use area, which is the area containing the development at the time of council approval. Had the new General Plan and its enabling by-laws been in place when the decision was made the City would not have had to fall back on the Similar Use provision, but new by-laws were not in place and the City had to rely on that wild card, Similar Use.

It's worth pointing out that no 4-storey condominiums, multi-attached, or multi-family structures exist in the old town. Similar Use is simply a convenience, an interpretive stretch, to mislead and achieve an end. Alarming, it appears to be used simply as an enabler to allow council and the development officer to approve whatever development they want. In this case, unfortunately, the interpretation is being used to completely change the character of this neighbourhood.

45.8% Variance

Moving on from Similar Use, we would like to address the very aggressive 45.8% variance proposed for this development. With such a significant variance being approved, we rhetorically ask the questions: Is there any limit to the variances the city is prepared to grant? What are the limits on variance in Yellowknife? If 45.8% is ok, is 52% ok too? Why not more? What objective criteria are used to grant a variance? By-law 4404 defines variance as follows:

an alteration or change to a standard prescribed by this by-law that is authorized by the Development Officer, Council or the Board

Like Similar Use, this loose definition suggests a variance is anything the Development Officer or Council says it is. We understand the routine variances the City grants for minor lot adjustments across the city, but surely the granting of extreme variances is not intended to be so loose and uncontrollable that the City can do virtually anything a counsellor can persuade the others to support. However, if as it appears and counselors have noted, the intention is to increase density as well as garner more tax revenue from

a property, no matter what the impact on the neighbourhood, loose and undefined rules are the way to go. That's simply not good governance.

The City Planner's letter to residents announcing the approval of the development with a 45.8% variance provides an explanation for the variance:

"Requests for variances can only be granted if they satisfy the evaluation criteria under Section 3.5(4) of Zoning By-law No. 4404. An analysis of the variance against the evaluation criteria determined that the subject site has conditions that create challenges to develop. The site has irregular lot lines, physical limitations relating to terrain and topography and natural features including rock outcrops and natural vegetation".

This rationale for the variance is remarkable. We're not dealing with an unsophisticated developer here. This developer has successfully erected large building all over Alberta, Nunavut and NWT. The developer test drilled this site in or around the year 2000 and knows better than anyone the condition of the subsurface available for building.

Subsequent to the initial purchase of the original lot (Lot 14 Block 78), the lot was expanded to include the rock outcrop that comprises a part of Lot 17. The developer knew full well that the newly acquired rock was not compatible with the rectangular structures it builds. To go through all the lot manipulation just to increase the lot area and then request a variance because parts of the lot are unsuitable for an apartment building of this enormous size is incredible. If anything, it suggests the developer is an extremely skilled strategist and planner who knew the City would give him what he wanted and the city administration has reacted in a remarkably naïve and compliant manner.

Why do we suggest this? Because we know that this developer was able to defy the Zoning Bylaw for over a decade as it used the site for outdoor storage of garbage and surplus building materials in direct contravention of the by-law, and the City, in spite of repeated community interventions, refused to enforce the law. No doubt the developer had good reason to believe it could convince the city to permit a variance for this project. The city has a record of not standing up to this developer and besides, in this case, awarding the variance means more tax revenue for the city.

It is not missed that the density of the expanded development is compatible with the total footprint of Lot 17 Block 80. But acquiring the land simply to front-load the lot through a 45.8% variance, which in its original size did not support this density, is clever indeed, but unacceptable intensification. The rationale for the variance is an insult to the integrity of the concept of planning, an apparent connivance to provide the City with higher revenue through increased taxation.

Variance Impact

So what does a 45.8% variance mean for this development? Firstly, it adds an additional floor on the building. The first noticeable impact is that it increasingly obscures the natural environment behind the structure. That, of course, disregards the Design Standards for Twin Pine Hill which reads:

In addition to all other requirements of this by-law, all development within the boundaries of Twin Pine Hill, as described in attached Schedule No. 2 to By-law No. 4216, shall be subject to the following design standards:

(a) Buildings shall be designed to blend into the natural landscape by minimizing terrain disturbance, and shall utilize natural features identified in the referenced Schedule No. 2.

The second and obvious impact is that it increases the number of apartment units in the building. And there is the rub. Those additional apartment units mean an increase in traffic and an increase in parking congestion. Interestingly the city, through the notice of decision, passes its planning mandate along to the developer when it includes the stipulation that:

“A Traffic Impact and Pedestrian circulation Study is required to be completed.”

Firstly the developer has a very challenged history in meeting its obligations to the city. Note the Bartam outdoor storage issue and the former mess in front of the Chateau Nova. Secondly, does the city imagine that a developer is going to come back with a study that says this development is not defensible? How on earth can a responsible local government approve a development with no forethought as to the traffic issues it will create, notwithstanding, of course, that internal discussions were held with Emergency Services and Public Works? It appears those discussions did not include the potential magnitude of on-street parking.

It was explained to us by the development officer that parking for this development is covered by the availability of 65 parking stalls on-site. When questioned about street parking common to every apartment building in Yellowknife the response was that the permitting process only applies to on-site parking. We submit that in a city renowned for its second vehicles, its snowmobiles and quads, RVs, boats and trailers, ignoring the off-site parking issues while issuing a development permit with a 45.8% variance is not reasonable community planning. Rather, it is willful neglect that results in a very direct impact on the residential neighbourhood in which the development is situated and, as seen in other areas, strains ongoing relations between the residents, the City, and developers.

We'd like to put this parking issue, exacerbated by the 45.8% variance, in perspective, and in doing so we make the assumption that people understand that street parking is normal around every apartment building in the city.

School Draw Avenue narrows at the rock outcrop south of the proposed development to a width of 27 feet 8 inches in front of the proposed development. On the south side of the rock outcrop School Draw is wider permitting both two-sided parking and adequate width for two-lane traffic. Observing the parking situation uphill from the rock it's easy to assume School Draw can handle that level of parking all the way to Franklin. So here's the problem:

For illustrative purposes we'll use a 2020 Ford F-150, a common vehicle in Yellowknife.

- Street width: 27 feet 8 inches
- 2020 F-150 width: mirrors extended: 8 feet
- F-150's on both sides of School Draw consume 16 feet, assuming they are parked snugly against the curb
- Space remaining for two-direction traffic: 11 feet 8 inches

This isn't much of a traffic study but it points out clearly that parking on School Draw in front of this development will cause a problem. Accepting the excessive variance of 45.8% simply increases the potential parking issues by the same amount and exacerbates the problem.

A simple solution to the problem, one might suggest, is to have on-street parking on only one side of School Draw. On-street parking will then likely have to move elsewhere and the nearest location is Lundquist Road. But Lundquist has its own parking issues. The homes on that street all receive trucked services for sewer and water. General parking cannot be allowed on the residential side of Lundquist but if that's the case, the residents are not allowed to park in front of their own homes... to overcome issues created by the proposed development and its 45.8% variance.

It is incontrovertible that the proposed development, if allowed to proceed in its current form, will have a negative impact on the residents of Lundquist Road owing to the misapplication of the term Similar Use and the incredible inclusion of a 45.8% variance.

By-law 5007 and Required Enabling By-laws

Bringing this discussion back to the adoption of By-law 5007, the City's News Alert dated July 31, 2020 stated:

To meaningfully implement the Community Plan, ensure consistency, and better address the needs of Yellowknife residents in 2020, the Zoning By-law must be updated. Changes to the Zoning By-law, to align it with the new Community Plan, are mandated by the Community Planning and Development Act. Work on the Zoning By-law review has begun, and public and stakeholder engagement dates will be announced in August.

“We look forward to engaging with Yellowknifers on the development of a new Zoning By-law that will provide the framework for implementing Council’s vision in the Community Plan” said Sheila Bassi-Kellett, City Administrator.

Clearly this statement by the City indicates that the new General Plan, no matter what vision it contains, does not empower the City to skip by-law revisions and jump ahead by plunking a non-permitted multi-family structure with an excessive variance, complete with all its negative neighbourhood impacts, onto Lot 17, Block 80. The visioned intensification of 5007 is not yet in force.

If it is argued that there are just simple changes required to By-law 4404 to make this development happen, and we know by-law changes are not necessarily a walk in the park, consider the requirements of By-law 4216, the map of which includes Lot 17, Block 80. Section 8.2: Design Standards for Twin Pine Hill, states, as noted before:

In addition to all other requirements of this by-law, all development within the boundaries of Twin Pine Hill, as described in attached Schedule No. 2 to By-law No. 4216, shall be subject to the following design standards:

(b) Buildings shall be designed to blend into the natural landscape by minimizing terrain disturbance, and shall utilize natural features identified in the referenced Schedule No. 2.

It would take a powerful imagination in City Hall to rationalize how this apartment building with its excessive height variance could be considered as one that would “blend in to the natural landscape.” Regardless of future change, the approved development does not stand up to this requirement, in place today, thereby offending the existing Bylaw.

Intensification and Compatibility

Notwithstanding the need to update the zoning by-law in order to proceed with the new General Plan, we would like to address the concepts of intensification and density transition.

This project was introduced to the City under By-law 4656. That by-law contained the following, which should have had the administration reject the proposal from the outset:

Section 4.1 Intensification Compatibility states:

*Intensification introduces new development into existing areas and requires a sensitive approach and consideration of the area’s established characteristics. Intensification often raises community concerns about livability and quality of life. **Attention to urban design and ensuring the compatibility of new development with existing community character can assist in building***

acceptance of intensification.

Compatible development means development that, although it is not necessarily the same as, or similar to, existing buildings in the vicinity, nonetheless enhances an established community and coexists with existing development without causing undue adverse impact on surrounding properties. A number of Character Areas have been defined in Section 4.2. Developments proposed in these Character Areas need to demonstrate conformity with the Character Area design guidelines, in addition to the compatibility criteria below
(Bold font added for emphasis)

Section 4.2, Character Areas, includes the OM zone, described in Section 4.2.1 as follows:

*Old Town is recognized as an integral part of Yellowknife's history and a major part of the unique character and personality of the community. The redevelopment vision for this area responds with the careful and incremental redevelopment of key sites and waterfront areas to add additional activity, increase public waterfront access, while at the same time respecting the organic and authentic character of the area. Old Town is characterized by eclectic building forms, human scale streets, modern and rustic materials, an active and natural waterfront, **prominent rock outcroppings**, and a diversity of people and activities that reflect the independent, industrious and artistic culture of Yellowknife. **The design guidelines and statements of this section are intended to reinforce the established character of Old Town.***
(Bold font added for emphasis)

By-law 4656 policy guidance for consideration of intensification is provided as follows:

1. *Compatibility of intensification proposals shall be assessed based on the following compatibility criteria, which shall be incorporated into each Character Area's regulations in the Zoning By-law:*
 - a. *Character: the design of new development should take advantage of opportunities to improve the character and quality of an area. New developments in a defined Character Area, pursuant to Section 4.2, must demonstrate consistency with the design guidelines for that Character Area.*

Consistency of design, compatibility, and consideration of character were ignored when City Council granted a conditionally permitted use for a 65 unit, 4-storey, 89 metre long building in this zone. This building is not consistent in design with any other structure in the zone. The rectangular block shape and overpowering size does not add character. The natural rock, slope, and vegetation behind the building will be totally obscured by the length and height of the building.

On July 27, By-law 4656 was superseded by By-law 5007 and a new General Plan was born. That document too considers intensification and character. In the new General Plan Lot 17, Block 80 will be considered as part of Central Residential. Section 4.12: Central Residential, Planning and Development Objectives and Policies reads: 3.

Planning and Development Objectives	Policies
3. To intensify land use through higher density development, starting in the areas that are adjacent to the city core and moving outwards. High density development adjacent to the City core stepping down to medium density.	3-a. Zoning will be revised to allow for higher density re-development close to the City Core stepping down to medium density zoning further from the City Core. <i>Note: Bold added for highlight.</i>

We respectfully submit that zoning was not revised as of the date of development approval, August 11, 2020, and has not been revised as of this hearing, rendering all this General Plan discussion just visioning, still requiring zoning by-law change, including public consultation, before coming into effect.

Summary

In summary, we would like to state yet again, as we have on other occasions: **We are not against development of this site.** However, this proposed building is too large for this location and contains too many units to be considered ‘Similar Use’ in the Old Town section of Bylaw 4404. It is the job of City Council and the Planning Department to make sure that any development respects the bylaws, the stated character areas, and the effects on the surrounding neighbourhood and property dwellers. Neither Council nor the Planning Department has done this. Bylaw 4404 has been contravened at several points mentioned above. The extreme 45.8% variance granted the developer allows a building too big for the developable space. Its dominating height and width will hide all natural features and rock outcrops that are supposed to be protected in this area by Bylaw 4404. Ignored off-site parking problems from 65 new residences will clog both School Draw Avenue and streets nearby negatively impacting the residents.

We ask that the Appeal Board reject this development proposal and instruct the City to work with the developer toward a project that respects the location both in size and compatibility with the character of Old Town and adheres to the by-laws of the City of Yellowknife.

Pam Dunbar

David Gilday

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
P.O. Box 580
Yellowknife, NT X1A 2N4

City of Yellowknife

AUG 25 2020

Received

August 24, 2020

Re: Intended Development: Multi-Family Dwelling Lot 17 Block 80, Plan 4462

I am appealing the decision of City of Yellowknife Development Officer to approve a Multi-Family Dwelling and a varied development of the Zoning By-law 4404 at 4024 School Draw as described in Development Permit PL-2019-0168.

I moved to Yellowknife in 1990 and lived in the Bartam trailer court in its' finally days. I am now a home owner at Lundquist Road and also own a home at 41 Street, which is also in the 100 m radius of this proposed development. I received letters from the City in regards to both the Conditional Permitted Use (dated April 17 2020) and one dated August 11 re Approval of Multi-Family dwelling with height variance. I listened into the Government, Priorities and Planning meeting on May 4 as well as the City Council Meeting on May 11.

I believe there was a misapplication of the "similar use" clause in the zoning bylaws in the approval of the application. Close reading of the Memorandum to Council (May 11, 2020) leads me to this conclusion.

I believe the proposed development contravenes the zoning bylaw as well as the Community Plan 2011 and the Community Plan 2019. I don't feel the intent of either Community Plans was for a development of this size to take place in this area. Several bylaws about Old Town Mix have also been contravened.

I am further concerned that this development is a bad precedent for the City and undermines public faith in this city's planning department and its governing capabilities.

In conclusion, I wish to present my argument to the Development Appeal Board as I am adversely affected by this development.

Sincerely,



Ann Lynagh
Lundquist Rd
Yellowknife NT X1A3G2



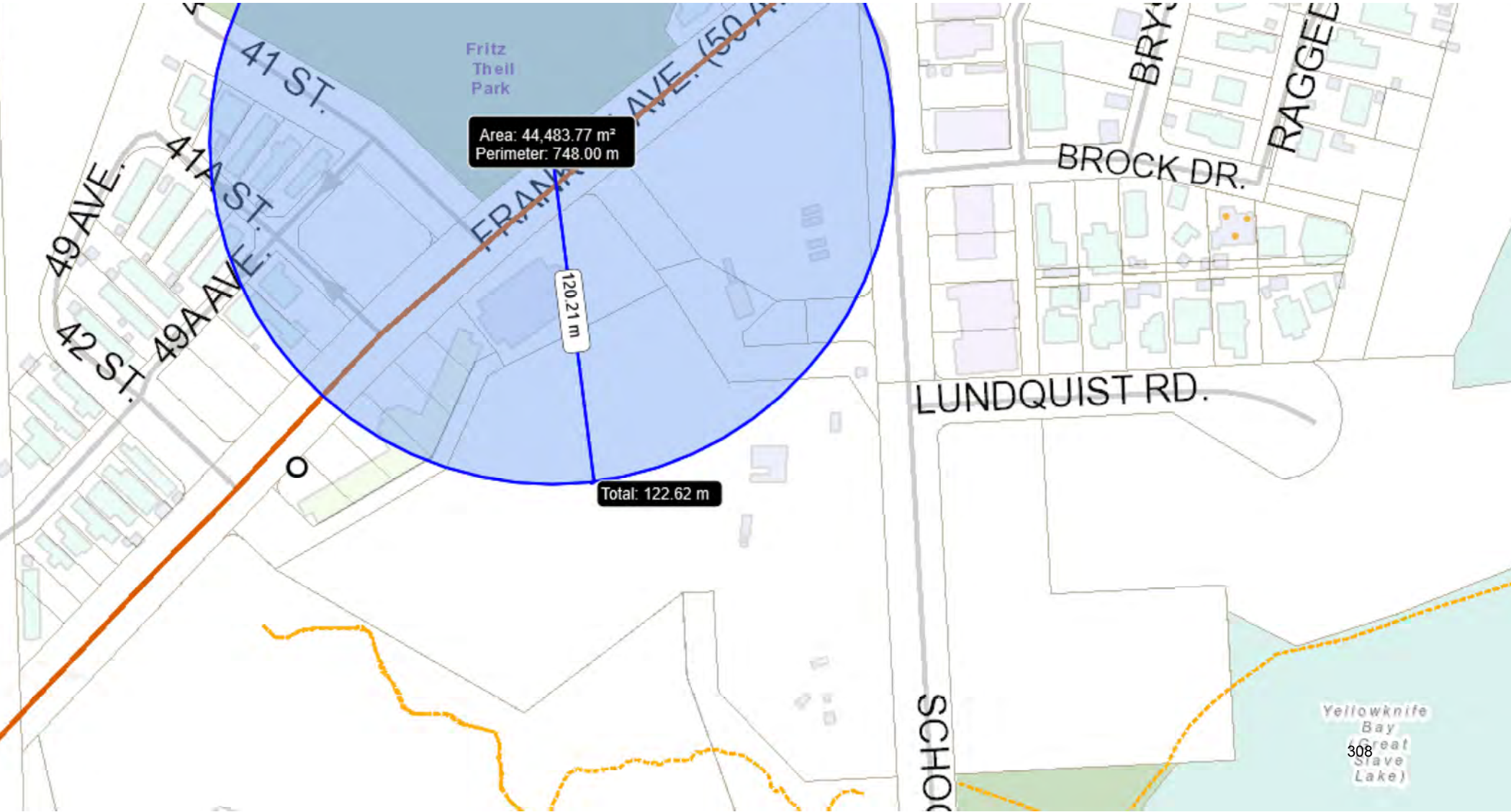
Area: 45,992.09 m²
Perimeter: 760.58 m

Total: 134.23 m

Niven Lake

Yellowknife Bay
(Great Slave Lake)

Fritz Thell Park



CITY OF YELLOWKNIFE – DEVELOPMENT APPEAL BOARD

Development: Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue)

File Number: PL-2019-0168

Date of Decision under Appeal: August 11, 2020 by Council Motion #0074-20

Appellant: Yellowknife Community Garden Collective

NOTICE OF APPEAL

by the **Yellowknife Community Garden Collective**

Decision Under Appeal

1. On August 11, 2020, a variance for Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue) (“**the Proposed Development**”) was approved (“**the Decision**”).
2. Pursuant to the Decision, the maximum height of the Proposed Development has been increased from 10.0m to 14.58m (45.8% variance) (“**the Variance**”). This allows the developer to add an additional floor to the proposed multi-family dwelling.
3. Pursuant to Yellowknife City Council Motion #0074-20, the Decision was communicated as follows : “That Council approve the Conditionally Permitted Use for the establishment of a Multi-Family Dwelling as a “Similar Use” to that of a Multi-Attached Dwelling at Lot 17, Block 80 (former Bartram site – 4024 School Draw Avenue)”.

Eligibility of Appellant

4. The Appellant, the Yellowknife Community Garden Collective (“**YCGC**”) is a non-profit organization registered under the *Societies Act* of the NWT and is currently in good standing.
5. The YCGC holds a lease with the City of Yellowknife for Lot 13, Block 78, Plan 4059, which is adjacent to the Proposed Development. The leased land is used as one of YCGC’s community gardens, specifically, the Old Town Garden. There are 17 garden plots at the Old Town Garden, and a total of 40 individual gardeners assigned to plots there.
6. The approval of the height variance for the Proposed Development will adversely affect YCGC members assigned to the Old Town Community Garden by creating shade on the

garden plots and thereby reducing the productivity of the Old Town Garden. Because the YCGC will be adversely affected by the Decision, the YCGC has standing and is eligible to file this appeal pursuant to s. 62(1) and 65(2) of the *Community Planning and Development Act*, S.N.W.T. 2011, c. 22, as amended (“**the Act**”).

7. Furthermore, because the Proposed Development and Variance were approved as a similar use, section 62(1)(d) of the Act is engaged and the threshold requirement under section 62(1) for bringing an appeal has been satisfied.
8. There is also a public interest aspect to this appeal. Under the YCGC’s bylaws, YCGC members are required to donate 25% of their produce to local charitable organizations who provide food to vulnerable populations in the City of Yellowknife. Therefore, any adverse effect on YCGC members in relation to the Proposed Development would also have an adverse effect on the public interest in food security.

Reasons for Appeal

9. According to Schedule 1 of the Zoning By-Law No. 4404, as amended, the Proposed Development is in an area zoned as “OM”, or Old Town Mixed Use.
10. The Permitted Uses of land zoned OM are: accessory decks, commercial use, office, single detached dwelling, duplex dwelling, mixed use, child care facility, multi-attached dwelling, planned development, home based business, temporary activities, and accessory structures and uses (section 10.18(2)(a) of Zoning By-Law No. 4404, as amended).
11. The Conditionally Permitted Uses of land zoned OM are: diamond facility, food/beverage service, hotel, industrial use, motel, lake use, parks and recreation, public and quasi-public uses, public utility uses and structures, special care facility, and similar use (section 10.18(2)(b) of Zoning By-Law No. 4404, as amended).
12. The Proposed Development is classified as a Multi-Family Dwelling, which is not a Permitted Use or a Conditionally Permitted Use of land zoned OM.
13. Yellowknife City Council conditionally permitted the Proposed Development and the Variance as a Similar Use to that of a Multi-Attached Dwelling, on the basis that similar uses can be conditionally approved, that Multi-Attached Dwellings are a permitted use in zone OM, and that a Multi-Family Dwelling is similar to a Multi-Attached Dwelling.
14. Therefore, the primary ground for this appeal is that the application for the development permit has been approved on the basis that the specific use of land or the building was similar in character and purpose to another use that was included in a zoning bylaw for that zone, pursuant to section 62(1)(d) of the Act.

15. The YCGC submits that the intended use of the Proposed Development as a Multi-Family Dwelling is not a similar use to a Multi-Attached Dwelling. In the Zoning By-Law No. 4404, as amended, a Multi-Attached Dwelling (the permitted use in zone OM) requires that each unit have separate access to ground level – i.e., three or more separate attached units that are side by side, not one on top of the other. A Multi-Family Dwelling uses shared entrance facilities. A Multi-Family Dwelling therefore permits for separate units on top of each other on different floors of the building, whereas a Multi-attached Dwelling does not. A Multi-Family Dwelling can therefore be of higher density and many more vertical floors than a Multi-Attached Dwelling. These are not similar uses.
16. Because a Multi-Family Dwelling cannot reasonably be classified as a similar use to a Multi-Attached Dwelling, the YCGC submits that the approval of the Proposed Development and Variance represents a misapplication of a zoning bylaw pursuant to section 62(1)(a) of the Act.
17. In the alternative, the approval represents circumstances where the Proposed Development does not fully conform with a zoning bylaw, pursuant to section 62(1)(e) of the Act, and / or the Proposed Development contravenes a zoning bylaw, pursuant to section 62(1)(b) of the Act.
18. For all of the reasons above, the YCGC submits that the Yellowknife City Council did not have the authority to approve the Proposed Development and the Variance without an amendment to the zoning bylaw.

Relief Sought

19. The YCGC submits that the Decision to approve the Variance for the Proposed Development be quashed.

20. In the alternative, the YCGC requests that the Development Appeal Board order that the approval of the Variance be made conditional on the developer engaging in a shade study showing the degree to which the Proposed Development, with and without the Variance, creates shade on the land leased by the YCGC. The shade study should be done by an independent contractor with the appropriate expertise and paid for by the developer. If the shade study shows that the Variance will create shade on the YCGC leased land, the approval of the Variance should be quashed, or in the alternative, the developer should be ordered to otherwise amend the site plan for the Proposed Development so that no shade is created on the lands leased by the YCGC.

Dated August 24th, 2020, and submitted to the Development Appeal Board by Caihla MacCuish,
Chair of the Yellowknife Community Garden Collective



Caihla MacCuish
Chair, Yellowknife Community
Garden Collective

CITY OF YELLOWKNIFE – DEVELOPMENT APPEAL BOARD

Development: Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue)

File Number: PL-2019-0168

Date of Decision under Appeal: August 11, 2020 by Council Motion #0074-20

Appellant: Yellowknife Community Garden Collective

WRITTEN SUBMISSIONS

by the **Yellowknife Community Garden Collective**

Overview

1. On August 11, 2020, a development permit for a four-story, 65 unit Multi-Family Dwelling at Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue) (“**the Proposed Development**”) was approved by Yellowknife City Council (“**the Approval**”) as a “similar use” to that of a Multi-Attached Dwelling. The approval allowed the maximum height of the Proposed Development to be increased from 10.0m to 14.58m (45.8% variance) (“**the Variance**”).
2. The Yellowknife Community Garden Collective (“YCGC”) operates a garden site, the Old Town Garden, that is immediately adjacent to the northern boundary of the Proposed Development site (see map at **Appendix A** below). The YCGC believes that the Proposed Development, with the Variance, will create a significant amount of shade on the Old Town Garden and decrease the garden’s productivity.
3. The Approval of the Proposed Development and Variance was a misapplication of the zoning bylaw, because a Multi-Family Dwelling is not a similar use to a Multi-Attached Dwelling. The Approval of the Proposed Development, the Variance, or both, should be reversed on that basis.
4. In the alternative, the Board should order that approval of the Proposed Development, the Variance, or both, be conditional on the Developer obtaining an independent sun shadow impact study to determine the extent to which the Proposed Development, with and without the Variance, will create shade on the Old Town Garden throughout the months of June through August. The results of the sun shadow impact study should then inform whether the Approval of the Proposed Development, the Variance, or both should ultimately be allowed or reversed, or whether the Board should order that the site and/or building plan for the Proposed Development should be changed.

Eligibility of Appellant

5. The YCGC is a non-profit organization registered under the *Societies Act* of the NWT and is currently in good standing.
6. The YCGC holds a lease with the City of Yellowknife for Lot 13, Block 78, Plan 4059, which is adjacent to the Proposed Development (see map at **Appendix A**). The leased land is used as one of YCGC's community gardens, specifically, the Old Town Garden, which was constructed in 2008 and has been in operation since 2009. There are 18 garden plots at the Old Town Garden, and a total of 40 individual gardeners assigned to plots there.
7. The approval of the height variance for the Proposed Development will adversely affect YCGC members assigned to the Old Town Garden by creating shade on the garden plots and thereby reducing the productivity of the Old Town Garden. Because the Proposed Development will be located to the south of the Old Town Garden, there is likely to be shade throughout much of the mid-day. Nine of the 18 garden plots extend right to the boundary of the Proposed Development site, and are the most likely to be impacted by shade from the Proposed Development. It is also possible that all 18 plots will experience increased shade from the Proposed Development.
8. Because the YCGC will be adversely affected by the Decision, the YCGC has standing and is eligible to file this appeal pursuant to s. 62(1) and 65(2) of the *Community Planning and Development Act*, S.N.W.T. 2011, c. 22 ("**the Act**").
9. Furthermore, because the Proposed Development and Variance were approved as a similar use, section 62(1)(d) of the Act is engaged and the threshold requirement under section 62(1) for bringing an appeal has been satisfied.
10. There is also a public interest aspect to this appeal. Under the YCGC's bylaws, YCGC members are required to donate 25% of their produce to local charitable organizations who provide food to vulnerable populations in the City of Yellowknife. Therefore, any adverse effect on YCGC members in relation to the Proposed Development would also have an adverse effect on the public interest in food security.

Grounds for Appeal

11. According to Schedule 1 of the Zoning By-Law No. 4404, the Proposed Development is in an area zoned as "OM", or Old Town Mixed Use.
12. The Permitted Uses of land zoned OM are: accessory decks, commercial use, office, single detached dwelling, duplex dwelling, mixed use, child care facility, multi-attached dwelling, planned development, home based business, temporary activities, and accessory structures and uses (section 10.18(2)(a) of Zoning By-Law No. 4404).

13. The Conditionally Permitted Uses of land zoned OM are: diamond facility, food/beverage service, hotel, industrial use, motel, lake use, parks and recreation, public and quasi-public uses, public utility uses and structures, special care facility, and similar use (section 10.18(2)(b) of Zoning By-Law No. 4404).
14. The Proposed Development is classified as a Multi-Family Dwelling, which is not a Permitted Use or a Conditionally Permitted Use of land zoned OM.
15. Yellowknife City Council conditionally permitted the Proposed Development and the Variance as a similar use to that of a Multi-Attached Dwelling, on the basis that similar uses can be conditionally approved, that Multi-Attached Dwellings are a permitted use in zone OM, and that a Multi-Family Dwelling is similar to a Multi-Attached Dwelling.
16. Therefore, the primary ground for this appeal is that the application for the development permit has been approved on the basis that the specific use of land or the building was similar in character and purpose to another use that was included in a zoning bylaw for that zone, pursuant to section 62(1)(d) of the Act.
17. City Council does have the discretion to conditionally permit “similar uses” to those permitted uses set out in section 10.18(2)(a) of Zoning By-Law No. 4404. However, the YCGC submits that a Multi-Family Dwelling is not a similar use to a Multi-Attached Dwelling, and therefore that the Approval is beyond the limits of the Council’s discretion.
18. In the Zoning By-Law No. 4404, a Multi-Attached Dwelling (the permitted use in zone OM) requires that each unit have separate access to ground level – i.e., three or more separate attached units that are side by side, not one on top of the other. The most typical type of Multi-Attached Dwelling would be a townhouse.
19. A Multi-Family Dwelling uses shared entrance facilities – i.e., an apartment building. A Multi-Family Dwelling therefore permits for separate units on top of each other on different floors of the building, whereas a Multi-attached Dwelling does not. A Multi-Family Dwelling can therefore be of much higher density and many more vertical floors than a Multi-Attached Dwelling. These are not similar uses.
20. Because a Multi-Family Dwelling cannot reasonably be classified as a similar use to a Multi-Attached Dwelling, the YCGC submits that the approval of the Proposed Development and Variance represents a misapplication of a zoning bylaw pursuant to section 62(1)(a) of the Act.
21. In the alternative, the approval represents circumstances where the Proposed Development does not fully conform with a zoning bylaw, pursuant to section 62(1)(e) of the Act, and / or the Proposed Development contravenes a zoning bylaw, pursuant to section 62(1)(b) of the Act.

22. Another basis for the Board to reverse the Approval of the Proposed Development, the Variance, or both is that the Approval is inconsistent with the City of Yellowknife's General Plan. Pursuant to section 3.11(2)(e) of the Zoning By-Law No. 4404, as amended, the Board is to consider each appeal having due regard to, among other things, the General Plan. Pursuant to section 69(2) of the Act, a decision of the Development Appeal Board must not conflict with any community plan or area development plan, which would include the General Plan. The General Plan states that the Twin-Pine Hill and Bartram area (i.e., the Proposed Development Site), is to have a combined total of 100 new units.¹ The Summit development on Twin Pine Hill already has 126 new units in that area.² Therefore, approving any Multi-Family Dwelling at the Proposed Development Site at Bartram is wholly inconsistent with scope and intent of the General Plan, especially if the Variance is included.
23. For all of the reasons above, the YCGC submits that Yellowknife City Council did not have the authority to approve the Proposed Development and the Variance, and that the Development Appeal Board should reverse or vary the Approval.

Relief Sought

24. The YCGC submits that the Approval of the Proposed Development, the Variance, or both should be reversed. The Development Appeal Board has the authority to reverse the Approval pursuant to section 3.11(3)(a) of the Zoning By-Law No. 4404.
25. In the alternative, the YCGC requests that the Development Appeal Board order that the approval of the Proposed Development, the Variance, or both be made conditional on the developer engaging in a sun shadow impact study showing the degree to which the Proposed Development, with and without the Variance, creates shade on the land leased by the YCGC.
26. Pursuant to section 3.11(3)(a) of the Zoning By-Law No. 4404 and section 69(1) of the Act, the Development Appeal Board has the authority to vary the Approval and impose any conditions or limitations that it considers appropriate in the circumstances. Pursuant to section 3.3(3)(h) of the Zoning By-Law No. 4404, in order to receive a development permit, a developer can be required to provide a reporting showing the effect of sun shadow produced by the proposed development. Therefore, the condition requested by the YCGC is reasonable in the circumstances.
27. Before issuing the Approval as a "similar use", which is only a *conditionally* permitted use under section 10.18(2)(b) of the Zoning By-Law No. 4404, Council should have considered the impact of sun shadow effects, but did not. Under section 3.4(3)(a)(i) of the Zoning By-Law No. 4404, in reviewing an application for a permit for a Conditionally Permitted Use,

¹ <https://www.yellowknife.ca/en/doing-business/resources/General%20Plan/2Presentation-Board-Residential-Land-Development.pdf>

² http://bux10.biz/pdf_listings/dmPDF/thesummit/thesummit.pdf

Council shall have regard to, among other things, the impact on properties in the vicinity from factors such as sun shadow effects. Council failed to consider this factor.

28. Ordering a sun shadow study would also be consistent with the General Plan, which states that: “Developments should be designed to avoid excessive shadowing and adverse wind and snowdrifting conditions on surrounding streets and public / private amenity spaces.”³ Pursuant to section 3.11(2)(e) of the Zoning By-Law No. 4404, as amended, the Board is to consider each appeal having due regard to, among other things, the General Plan.
29. The sun shadow impact study should be done by an independent architect or engineer with the appropriate expertise and paid for by the developer. As a non-profit organization, the YCGC does not have the resources to obtain its own sun shadow study. The study should indicate the extent of shadow created on the Old Town Garden between June 1 and August 31 at appropriate time intervals between those dates, and if necessary, indicate design alternatives that would minimize shadows. If the sun shadow study shows that the Variance will create shade on the YCGC leased land, the approval of the Variance should be reversed, or in the alternative, the Approval should be varied by the Board ordering the Developer to otherwise amend the site plan for the Proposed Development so that no shade is created on the lands leased by the YCGC.

Dated September 9, 2020, and submitted to the Development Appeal Board by Caihla MacCuish, Chair of the Yellowknife Community Garden Collective.



Caihla MacCuish
Chair, Yellowknife Community
Garden Collective

chair@ykgardencollective.org

³ <https://www.yellowknife.ca/en/doing-business/resources/General%20Plan/3Presentation-Board-Intensification-Compatibility.pdf>

APPENDIX A



Debbie Gillard

From: Dave Jones
Sent: August 24, 2020 12:25 PM
To: Debbie Gillard
Subject: RE: Appeal of Development Permit No. PL 2019-0168 - Lot 17, Block 80

Thanks Debbie – and right – forgot there is another dgillard
Regards
Dave

From: Debbie Gillard [mailto:debbie.gillard@yellowknife.ca]
Sent: Monday, August 24, 2020 11:35 AM
To: Dave Jones
Subject: FW: Appeal of Development Permit No. PL 2019-0168 - Lot 17, Block 80

Hi Dave,

Payment can be made over the phone 920-5600, or in person at City Hall between the hours of 11:00 a.m. and 2:00 p.m. Payment is required in order to file the appeal, therefore please note the deadline is tomorrow, August 25, 2020 at 4:30 p.m.

Also, please note that my email address is debbie.gillard@yellowknife.ca, (dgillard does not come to me).

Thank you,

Debbie Gillard

City Clerk
City of Yellowknife
T: 867.920.5646
F: 867.920.5649
yellowknife.ca



IMPORTANT NOTICE: This message is intended only for the use of the individual or entity to which it is addressed. The message may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by email and delete the contents of the communication. Thank you. Please consider the environment before printing this e-mail and/or attachments.

August 24, 2020

Attn: Debbie Gillard
City Clerk's Office

Please accept this letter of notification to request appeal to the Yellowknife Development Appeal Board of Development Permit No. PL 2019-0168 (Lot 17, Block 80).

The basis for appeal of the noted development permit is that there has been a misapplication of the provisions of Zoning By-law No. 4404 as it applies to both the use of the property and the variations

provided for the development. Members of our association are affected by the scale and density of the proposed development.

Please confirm receipt of this email and advise whether payment of \$25.00 to undertake the appeal may be completed on line, by phone, or in person at City Hall.

Regards
Dave Jones
Executive Member
Back Bay Community Association

September 9, 2020

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
4807 – 52nd Street
P.O. Box 580, Yellowknife, NT X1A 2N4

RE: Appeal of Development Permit No. PL-2019-0168

Background

Appeal of the above noted permit is submitted by the Back Bay Community Association (BBCA). We are an association registered in 1983 representing 40 households in the Peace River Flats area of Old Town.

BBCA members are within sightline of this development and many of our members are regular users of the park, natural spaces, viewpoints and roads in the vicinity of the proposed development. Our association contends that the development is of a scale, mass, and density that is in conflict with the character of adjacent neighbourhoods and will adversely affect the amenities of the area, specifically due to increased noise, light, traffic, and parking demands; impacts on sightlines to rock outcrops; and added human pressures on adjacent park lands and trails.

BBCA provided a submission to City Council and spoke to the development proposal at the Priorities and Planning Committee meeting of May 5, 2020.

Facts

Mass of building approved – 300 feet long; 75 feet deep; 50 feet high.

Residential density approved – 65 units

Comparable structures within the Old Town Mixed Use zone - none

Grounds of Appeal

1. Application of Similar Use Clause to Approve Development

Under the Old Town Mixed Use zone of Zoning By-law No. 4404, the Similar Use clause was used by Council to determine that a Multi-family dwelling is similar to a Multi-attached dwelling. The "OM" zoning applied to the development site conditionally permits a Multi-attached dwelling, but does not permit a Multi-family dwelling.

We submit that City Council has improperly applied the Similar Use clause on this site. The two dwelling types are not similar in character or purpose. The Multi- attached dwelling use allows for a building of greater mass, scale and density than would otherwise be permitted. The general purpose as stated under the "OM" zone is:

“To provide an area for low density residential development in the form of single detached and duplex dwellings and compatible uses as herein listed.”

The intent of the Similar Use clause is to allow the City to consider a land use that would not otherwise be described in the Zoning By-law. The intent of the Similar Use clause is not to permit development that is otherwise described in the Zoning By-law.

We contend that improper application of the Similar Use clause on the noted development site has resulted in a defacto amendment of the “OM” provisions of Zoning By-Law No. 4404, without due process, by allowing a Multi-family development that is otherwise not permitted within the “OM” zone.

We further contend that the Multi-family development is not compatible with the stated purpose of the “OM” zone.

Application of the Similar Use clause to this development by Council is flawed and represents an inappropriate use of the provisions of Zoning By-law No. 4404; as such we contend that the Development Appeal Board must REVERSE the decision of Council.

2. Consideration of Development Proposal by Council.

At the Priorities and Planning Committee meeting of May 5, 2020, Council heard submissions by the developer and the public and considered the proposed development. Following Council discussion, five Councillors and the Mayor voted in favour of approving the development proposal. This vote carried through to a Council decision on the matter dated May 11, 2020.

During Council discussion, members in favour agreed with Administration’s recommendation that the proposed development should be permitted as a Similar Use. Council provided no compelling explanation of how the proposed development on site was similar in use. During this Council discussion, the following rationale was put forward to support approval of the proposed development:

1. The City needs apartment buildings.
2. The City needs to encourage development and grow its tax base.
3. The development site has sat empty for a long period.

These rationale are not relevant considerations pertaining to Council’s role as development officer in the review of the Conditionally Permitted Use (Similar Use) in question. They are not outlined under Zoning By-law 4404 as considerations in the review of development.

These rationale put forward by Council are irrelevant and represent a lack of due consideration by Council of the relevant provisions of Zoning By-law No. 4404 in the review of this development; as such we contend that the Development Appeal Board must REVERSE the decision of Council.

3. Height variance to the maximum height

The “OM” zone allows for a maximum building height of 10 meters. The Development Officer has allowed a variance to this provision to increase building height to 14.58 meters. This increase in height in effect allows for a fourth story to the building, and increases the mass and residential unit density of the building by 25%. The rationale used by the Development Officer to allow this variance is flawed.

There is clearly a negative effect on the neighbourhood area by increasing the mass and residential unit density of the building by this amount. This mass and density increase further illustrates the incompatibility of this high density development to the adjacent low density residential areas of Willow Flats, Peace River Flats and School Draw, and to the medium density townhome development located at the top of Twin Pine Hill.

Rationale that the development property has irregular lot lines is not relevant to the variance allowed, in that the building is placed on the site with no limitations and where it is most economical to build.

Rationale that development property has physical limitations is unfounded. The rock outcrop to the rear of the site was added later to the original Bartam site, with the consent as seller by the City of Yellowknife, and the willingness of the developer, as purchaser. The development property is simply a large site with varying terrain. Use of the physical limitation rationale is not relevant and has been used by the Development Officer to provide an unsubstantiated density bonus to the development.

The rationale outlined by the Development Officer to allow a height variance, and as such a building mass and residential density variance, is flawed and represents an inappropriate use of Zoning By-law No. 4404; as such we contend that the Development Appeal Board must REVERSE the decision of the Development Officer.

Thank you for your consideration.

Regards

Dave Jones
Executive Member
Back Bay Community Association

City of Yellowknife

AUG 25 2020

Received

Development Appeal Board
c/o City Clerk's Office
City of Yellowknife
4807 – 52 St, (City hall)
P.O. Box 580
Yellowknife, NT X1A 2N4

Marjorie Matheson-Maund
Gary Maund
Bryson Drive
Yellowknife, NT X1A2A1

By Email:

August 24, 2020

Dear Development Appeal Board Members,

**Re: Appeal of PL-2019-0168 Proposed Apartment Building /Development Lot 17
Block 80 Old Bartam Trailer Park**

Please accept this appeal on the development permit PL-2019-0168 65 Unit Apartment Building. We are eligible to appeal because the development would directly affect us as described below.

We believe City Council made an error in declaring the proposed use to be a "similar use" to conditionally permitted uses in zoning by law No. 4404 and we would encourage the Development Appeal Board Members to carefully consider our concerns.

My husband and I are seniors and have been residents of Yellowknife since 1978, we purchased our home in Willow flats in 1992. We are writing this letter to you to express our concern and opposition of the proposed construction of a 65 unit multi-family dwelling on the site of the former Bartam Trailer Park. We are requesting that the Development Appeal Board Members do not approve the proposed development on this site as the proposed development does not meet the vision of the Old Town Development plan, does not meet OM zoning bylaw 4404 Section 10.18 and does not take in to consideration the City of Yellowknife 2011 General Plan Section 4.2.1.

We feel it was unreasonable for council to conditionally permit such a large (65 Unit) building at this location because an extremely large apartment building is not a "similar use" to the permitted uses for the area. It is not similar in nature to them. It is different from multi-attached dwellings in size, style, density and shape and form from row housing, and

townhouses. The building does not reflect the character of the Old Town and would further alter the beauty of the Twin Pine Hill. Permitting the development would not follow the City of Yellowknife's principles in the general plan update. We believe that Council is not respecting the City of Yellowknife's current by-law, which is designed to protect the character of the Old Town.

The proposed development contains 65 Units which is more households than all of Willow Flats. It is also more households than all of Peace River Flats. Allowing 65 more households in the area will most likely double the traffic in what is now a peaceful area, and impact the safety of our roads and walkways. This will directly affect the quality of life for our family and grandchildren.

We also urge the Development Appeal Board Members to review the history of why the city of Yellowknife decided to purchase Bartam Trailer Park, the displacement of residents at that time, the subsequent acquisition of the land by the developer and promises regarding housing for specifically for seniors. Please note we are not opposed to development in the area but feel that the design and scope should reflect the character of the Old Town and respect the permitted uses in the by-law, which are chosen to protect the character of the Old Town.

We are also concerned that the proposed 65 unit apartment building (including parking spaces and associated light and noise pollution) could have a negative impact on the wetlands located across the street from the proposed site. Each spring many birds use this area as it is one of the first areas in the city to have open water on the migration path north...and south in the fall. Has an environmental assessment been considered on the possible negative impact on migratory birds if the proposed housing project is approved?

We request that the Development Appeal Board does not allow for the variance in height. A very tall, large four-story apartment building with 65 Units will drastically alter the character of the old town and impact the quality of life for residents Willow Flats. We encourage the Development Appeal Board to come down to the old town, walk around both Peace River and Willow Flats, visit Rotary park and walk on the boardwalk to sit by the Great Slake Lake...then look over to site of the proposed very tall 65 Unit apartment complex and then imagine the negative impacts on families who are currently residing in the area.

Sincerely,



Gary Maund
Marjorie Matheson-Maund
Bryson Drive
Yellowknife, NT. X1A2A1

Development Appeal Board
CITY OF YELLOWKNIFE

P.O. BOX 580,
YELLOWKNIFE, NT
X1A 2N4

Tel (867) 920-5646
Fax (867) 920-5649

September 2, 2020

200-D1-H2-20

REGISTERED MAIL

Cathy Cudmore
Lundquist Road
Yellowknife, NT X1A 3G2

Dear Ms. Cudmore:

Re: Appeal of Development Permit No. PL- 2019-0182

Receipt is hereby acknowledged of your letter appealing the decision of the Development Officer to issue a Development Permit for a Multi-Family Dwelling at Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue).

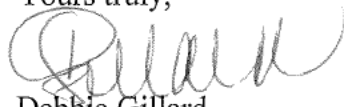
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With respect to the submission of written documentation for the Appeal Board's consideration, you are hereby informed that, pursuant to section 3.10(4)(a) of the Yellowknife Zoning By-law, all maps, plans, drawings and written material that you intend to submit in support of your appeal must be filed with the Secretary of the Appeal Board no later than ten days before the day fixed for the appeal. You have until 4:30 p.m. on Thursday, September 10, 2020 to submit your documentation to the Secretary of the Appeal Board at City Hall or via email to cityclerk@yellowknife.ca. Should your submission be too large to email, please contact me and we will make arrangements to provide you with our File Transfer Site.

Enclosed are copies of the sections of the *Community Planning and Development Act* of the Northwest Territories and the City of Yellowknife Zoning By-law that describe the Appeal Board's composition and procedures.

Please contact me should you have any questions with respect to the appeal.

Yours truly,



Debbie Gillard
Secretary,
Development Appeal Board

DG/sj

Enclosure

DM#623440

Development Appeal Board
CITY OF YELLOWKNIFE

P.O. BOX 580,
YELLOWKNIFE, NT
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Tel (867) 920-5646
Fax (867) 920-5649

September 2, 2020

200-D1-H2-20

REGISTERED MAIL

Barb Cameron
Bryson Drive
Yellowknife, NT X1A 1Z9

Dear Ms. Cameron:

Re: Appeal of Development Permit No. PL- 2019-0182

Receipt is hereby acknowledged of your letter appealing the decision of the Development Officer to issue a Development Permit for a Multi-Family Dwelling at Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue).

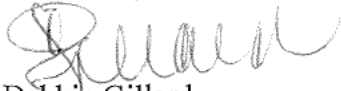
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Yours truly,



Debbie Gillard
Secretary,
Development Appeal Board

DG/sj

Enclosure

DM#623440

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Fax (867) 920-5649

September 2, 2020

200-D1-H2-20

REGISTERED MAIL

Alan & Miki Ehrlich
Bryson Drive
Yellowknife, NT X1A 2A1

Dear Mr. and Ms. Ehrlich:

Re: Appeal of Development Permit No. PL- 2019-0182

Receipt is hereby acknowledged of your letter appealing the decision of the Development Officer to issue a Development Permit for a Multi-Family Dwelling at Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue).

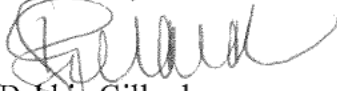
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Yours truly,



Debbie Gillard
Secretary,
Development Appeal Board

DG/sj

Enclosure

DM#623440

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X1A 2N4

Tel (867) 920-5646
Fax (867) 920-5649

September 2, 2020

200-D1-H2-20

REGISTERED MAIL

Pamela Dunbar & David Gilday
Lundquist Road
Yellowknife, NT X1A 3G2

Dear Ms. Dunbar and Mr. Gilday:

Re: Appeal of Development Permit No. PL- 2019-0182

Receipt is hereby acknowledged of your letter appealing the decision of the Development Officer to issue a Development Permit for a Multi-Family Dwelling at Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue).

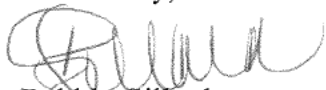
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Please contact me should you have any questions with respect to the appeal.

Yours truly,



Debbie Gillard
Secretary,
Development Appeal Board

DG/sj

Enclosure

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X1A 2N4

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Fax (867) 920-5649

September 2, 2020

200-D1-H2-20

REGISTERED MAIL

Ann Lynagh
Lundquist Road
Yellowknife, NT X1A 3G2

Dear Ms. Cameron:

Re: Appeal of Development Permit No. PL- 2019-0182

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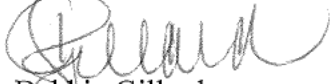
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Yours truly,



Debbie Gillard
Secretary,
Development Appeal Board

DG/sj

Enclosure

DM#623440

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CITY OF YELLOWKNIFE

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YELLOWKNIFE, NT
X1A 2N4

Tel (867) 920-5646
Fax (867) 920-5649

September 2, 2020

200-D1-H2-20

REGISTERED MAIL

YK Community Garden Collective
Yellowknife, NT

Dear Ms. MacCuish:

Re: Appeal of Development Permit No. PL- 2019-0182

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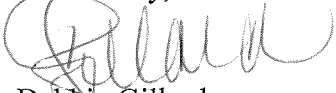
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Yours truly,



Debbie Gillard
Secretary,
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September 2, 2020

200-D1-H2-20

REGISTERED MAIL

Dave Jones
Back Bay Community Association
Anderson Thompson Blvd
Yellowknife, NT X1A 1J5

Dear Mr. Jones:

Re: Appeal of Development Permit No. PL- 2019-0182

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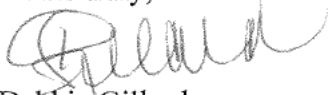
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Yours truly,



Debbie Gillard
Secretary,
Development Appeal Board

DG/sj

Enclosure

DM#623440

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CITY OF YELLOWKNIFE

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YELLOWKNIFE, NT
X1A 2N4

Tel (867) 920-5646
Fax (867) 920-5649

September 2, 2020

200-D1-H2-20

REGISTERED MAIL

Gary & Marjorie Maund
Bryson Drive
Yellowknife, NT X1A 2A1

Dear Mr. and Ms. Maund:

Re: Appeal of Development Permit No. PL- 2019-0182

Receipt is hereby acknowledged of your letter appealing the decision of the Development Officer to issue a Development Permit for a Multi-Family Dwelling at Lot 17, Block 80, Plan 4462 (4024 School Draw Avenue).

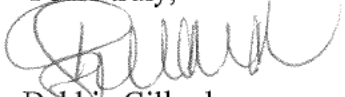
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Please contact me should you have any questions with respect to the appeal.

Yours truly,



Debbie Gillard
Secretary,
Development Appeal Board

DG/sj

Enclosure

DM#623440

Officer, that the new application addresses the reasons for the refusal.

3.10 Development Appeal Process

Section 3.10

Section 3.10 (1) (a) as amended by By-law No. 4913 Oct 24, 2016

- (1) (a) A person whose application for a development permit is refused or who is approved for a development permit subject to a condition that he or she considers to be unreasonable, may appeal the refusal or the condition to the Development Appeal Board pursuant to Section 61 of the *Community Planning and Development Act*, by serving written notice of appeal to the Secretary of the Board within 14 days after the day the application for the development permit is approved or refused;
- (b) A person claiming to be affected by a decision of the Development Officer or Council made under this by-law may appeal to the Development Appeal Board pursuant to Section 62 of the *Community Planning and Development Act*, by serving written notice of appeal to the Secretary of the Board within 14 days after the day the application for the development permit is approved

Section 3.10 (2) as amended by By-law No. 4913 October 24, 2016

- (2) Where an appeal is made, a development permit shall not come into effect until the appeal has been determined and the decision confirmed, reversed or varied.
- (3) An appeal must be heard by a quorum of the Development Appeal Board, and a quorum shall consist of at least 2 members and the Chairperson or an Acting Chairperson.
- (4) Hearing procedures are as follows:
 - (a) the appellant and any other interested party shall, not later than ten days before the day fixed for the hearing of the appeal, file with

-
- the Secretary of the Board all maps, plans, drawings and written material that they intend to submit to the Board or use at the hearing;
- (b) the Development Officer or Council shall, if required by the Board to do so, transmit to the Secretary of the Board, before the day fixed for the hearing of the appeal, the original or true copies of maps, plans, drawings and written material in its possession relating to the subject matter of the appeal;
 - (c) all maps, plans, drawings and written material, or copies thereof, filed or transmitted pursuant to this section shall, unless otherwise ordered by the Board, be retained by the Board and be part of its permanent records; but, pending the hearing of the appeal, all the material shall be made available for the inspection of any interested person;
 - (d) where a member of the Board has a conflict of interest in the matter before the Board, that member is not entitled to participate, deliberate, or vote thereon;
 - (e) in determining an appeal, the Board shall not:
 - i) approve development that is not permitted or conditionally permitted by this by-law in the zone in which the development is situated, or
 - ii) approve development in a manner that is incompatible with the General Plan;
 - (f) a decision concurred with by a majority of the Board present at the hearing is the decision of the Board;

Section 3.10(4) (g) as amended by By-law No. 4914 Oct 24, 2016

- (g) The decision of the Board shall be based on the facts and merits of the case and shall be in the form of a written report, including a summary of

all representations made at the hearing and setting forth the reasons for the decision and signed by the Chairperson or, in their absence, the acting Chairperson, and the Secretary and a copy of the decision shall be sent by the Secretary to the City and the appellant within 15 days of the date in which the decision was rendered plus all parties on whose behalf representations have been made, and to each interested person upon their request; and;

Section 3.10(4) (h) as amended by By-law No. 4913 Oct 24, 2016

- (h) a decision of the Board is final and binding on all parties and is not subject to appeal.

3.11 Development Appeal Board

Section 3.11 (1) as amended by By-law No. 4913 Oct 24, 2016

- (1) The Development Appeal Board is hereby established in accordance with the Section 30 of the *Community Planning and Development Act*.

- (2) The Development Appeal Board shall:

- (a) be composed of at least 3 persons and not more than seven, and one shall be a member of Council, but shall not include employees of the City;
- (b) elect a chairperson;
- (c) hold a hearing within 30 days after an appeal has been received;

Section 3.11(2) (d) as amended by By-law No. 4913 Oct. 16, 2016

- (d) Ensure that reasonable notice of the hearing is given to the appellant, all owners and lessees of land within 30 metres of the boundary of the land in respect of which the appeal relates, and all other persons who in the opinion of the Board may be affected;

Section 3.11(2) (e) as amended by By-law No. 4913 Oct. 16, 2016

- (e) consider each appeal having due regard to the circumstances and merits of the case and to the purpose, scope and intent of the General Plan, Area Development Plan, and any Council approved

plans or policies, and to this by-law;

- (f) where an appeal is heard, hear the appellant or the appellant's agent, the Development Officer and any other persons that it considers necessary for a full and proper hearing;
- (g) render its decision in writing to the appellant within 60 days after the date on which the hearing is held;

Section 3.11(2) (h) deleted by By-law No. 4913 Oct. 16, 2016 and subsections renumbered accordingly

(h)

- (i) conduct a hearing pursuant to Section 3.10 of this by-law.

(3) The Development Appeal Board may:

- (a) in determining an appeal, confirm, reverse or vary the decision appealed from and may impose conditions or limitations that it considers proper and desirable in the circumstances; and
- (b) appoint the City Clerk to act as Secretary for the Board.

(4) The Secretary for the Board shall:

- (a) ensure that reasonable notice of the hearing is given to the appellant and all persons who in the opinion of the Board may be affected;
- (b) prepare and maintain a file of the minutes of the business transacted at all meetings of the Board, copies of which shall be regularly filed with Council;
- (c) issue to the appellant and all affected parties a notice of the decision of the Board and the reasons therefore;

Section 3.11(4) (d) as amended by By-law No. 4913 Oct 26, 2016

-
- (d) Notify the City of the decisions of the Board and the reasons therefore; and
 - (e) carry out administrative duties as the board may specify.

Section 3.12 added as per By-law No. 5002 August 26, 2019

3.12 Amending an Effective Development Permit

- (1) An Effective Development Permit may be amended by the Planning Administrator provided that:
 - (a) The request complies with all applicable regulations of this by-law;
 - (b) The amendment is directly related to the uses and conditions of the Effective Development Permit;
 - (c) There is no change in use.
- (2) All changes that do not meet the criteria set out in subsection (1) require a new development permit, pursuant to Part 3 of this By-law.
- (3) All amendments to Effective Development Permits must be provided in writing and sent to the applicant.

Use and development restricted

- (2) On the registration of a caveat,
 - (a) the order binds the heirs, executors, administrators, assigns, transferees and successors in title of the owner of the land affected by the order; and
 - (b) until the caveat is withdrawn, no use or development of the land or buildings located on it may take place except in accordance with the order.

- (2) Dès l'enregistrement de l'opposition :
 - a) d'une part, l'ordonnance lie, à l'égard du propriétaire du bien-fonds touché, ses héritiers, exécuteurs, administrateurs, cessionnaires et destinataires du transfert;
 - b) d'autre part, jusqu'au retrait de l'opposition, aucun usage ou aménagement du bien-fonds ou des bâtiments situés sur celui-ci n'est possible si ce n'est conformément à l'ordonnance.

Usage et aménagement restreints

Withdrawal

(3) A municipal corporation shall withdraw the caveat when the order of the Supreme Court has been complied with.

(3) La municipalité retire l'opposition lorsque l'ordonnance de la Cour suprême est respectée.

Retrait

Debt owed to municipal corporation

60. Any expenses and costs of an action taken by a municipal corporation under subsection 58(4) to carry out an order of the Supreme Court are a debt owing to the municipal corporation by the person required by the order to comply, and may be recovered from the person in default by civil action for debt, or by charging it against real property of which the person is the owner in the same manner as arrears of property taxes under the *Property Assessment and Taxation Act*.

60. Les dépenses et les frais d'une action que prend la municipalité en vertu du paragraphe 58(4), en vue d'exécuter une ordonnance de la Cour suprême, constituent une créance de la municipalité à l'égard de la personne visée dans l'ordonnance, qui peut être recouvrée auprès de la personne en défaut soit en intentant une poursuite civile, soit en constituant une charge sur le bien réel dont la personne est le propriétaire évalué comme s'il s'agissait d'arriérés d'impôt foncier visés par la *Loi sur l'évaluation et l'impôt fonciers*.

Créance de la municipalité

DIVISION B - APPEALS

DIVISION B - APPELS

Development Appeals

Appels en matière d'aménagement

Appeal of refusal or conditions

61. (1) A person whose application to a development authority for a development permit is refused, or who is approved for a development permit subject to a condition that he or she considers to be unreasonable, may appeal the refusal or the condition to the appeal board.

61. (1) La personne dont la demande de permis d'aménagement a été refusée par l'autorité d'aménagement ou dont le permis d'aménagement est assorti d'une condition qu'elle estime déraisonnable peut en appeler du refus ou de la condition à la commission d'appel.

Appel du refus ou des conditions

Exception

(2) A condition that is required by a zoning bylaw to be on a development permit is not subject to appeal under subsection (1).

(2) La condition obligatoirement assortie au permis d'aménagement en vertu d'un règlement de zonage ne peut faire l'objet d'un appel en vertu du paragraphe (1).

Exception

Application deemed refused

(3) For the purposes of subsection (1), an application to a development authority for a development permit is, at the option of the applicant, deemed to be refused if the decision of the development authority is not made within 40 days after the day the application is received in its complete and final form.

(3) Aux fins du paragraphe (1), la demande de permis d'aménagement auprès d'une autorité d'aménagement est, au choix de son auteur, réputée refusée si la décision de l'autorité d'aménagement n'est pas prise dans un délai de 40 jours à compter de la date de réception de la demande sous forme finale.

Demande réputée refusée

Commencing development appeal	(4) An appeal under subsection (1) must be commenced by providing a written notice of appeal to the appeal board within 14 days after the day the application for a development permit is approved or refused.	(4) L'appel en vertu du paragraphe (1) se forme au moyen d'un avis d'appel écrit donné à la commission d'appel au plus tard 14 jours après la date d'approbation ou de refus de la demande de permis d'aménagement.	Formation de l'appel en matière d'aménagement
Appeal of development permit	<p>62. (1) A person other than an applicant for a development permit may only appeal to the appeal board in respect of an approval of an application for a development permit on the grounds that the person is adversely affected and</p> <ul style="list-style-type: none"> (a) there was a misapplication of a zoning bylaw in the approval of the application; (b) the proposed development contravenes the zoning bylaw, the community plan or an area development plan; (c) the development permit relates to a use of land or a building that had been permitted at the discretion of a development authority; (d) the application for the development permit had been approved on the basis that the specific use of land or the building was similar in character and purpose to another use that was included in a zoning bylaw for that zone; (e) the application for the development permit had been approved under circumstances where the proposed development did not fully conform with a zoning bylaw; or (f) the development permit relates to a non-conforming building or non-conforming use. 	<p>62. (1) Toute personne à l'exception de l'auteur d'une demande de permis d'aménagement peut en appeler à la commission d'appel concernant l'approbation d'une demande de permis d'aménagement au motif qu'elle est lésée et que, selon le cas :</p> <ul style="list-style-type: none"> a) il y a eu une erreur dans l'application du règlement de zonage lors de l'approbation de la demande; b) le projet d'aménagement contrevient au règlement de zonage, au plan directeur ou a plan d'aménagement régional; c) le permis d'aménagement vise un usage d'un bien-fonds ou d'un bâtiment qui avait été permis à la discrétion d'une autorité d'aménagement; d) la demande de permis d'aménagement avait été approuvée sur le fondement que l'usage particulier du bien-fonds ou du bâtiment était semblable quant à sa nature et à son but à un autre usage prévu dans le règlement de zonage à l'égard de cette zone; e) la demande de permis d'aménagement avait été approuvée à l'égard d'un projet d'aménagement qui ne respectait pas en tous points le règlement de zonage; f) le permis d'aménagement vise un bâtiment dérogatoire ou un usage non conforme. 	Appel d'un permis d'aménagement
Restriction	(2) For greater certainty, an appeal respecting the approval of an application for a development permit for a use specified in a zoning bylaw as a permitted use of land or a building, as referred to in subparagraph 14(1)(c)(i) or (ii) of this Act, may only be made if there is an alleged misapplication of the bylaw in the approval of the application.	(2) Il est entendu qu'un appel portant sur l'approbation d'une demande de permis d'aménagement visant un usage qu'un règlement de zonage précise comme usage permis d'un bien-fonds ou d'un bâtiment, visé aux sous-alinéas 14(1)c)(i) ou (ii) de la présente loi, n'est possible qu'en présence d'erreur présumée dans l'application du règlement de zonage lors de l'approbation de la demande.	Restriction
Commencing appeal of permit	(3) An appeal under subsection (1) must be commenced by providing a written notice of appeal to the appeal board within 14 days after the day the application for the development permit is approved.	(3) L'appel en vertu du paragraphe (1) se forme au moyen d'un avis d'appel écrit donné à la commission d'appel au plus tard 14 jours après la date d'approbation de la demande de permis d'aménagement.	Formation de l'appel du permis

Appeal of Order

Appel d'un ordre

Appeal to appeal board	63. (1) A person who is subject to an order issued by a development officer under subsection 57(1) of this Act, or under a zoning bylaw, may appeal the order to the appeal board.	63. (1) La personne visée dans un ordre de l'agent d'aménagement en vertu du paragraphe 57(1) de la présente loi ou d'un règlement de zonage peut en appeler de l'ordre à la commission d'appel.	Appel à la commission d'appel
Commencing appeal of order	(2) An appeal under subsection (1) must be commenced by providing a written notice of appeal to the appeal board within 14 days after the day the order of the development officer is served on the person.	(2) L'appel en vertu du paragraphe (1) se forme au moyen d'un avis d'appel écrit donné à la commission d'appel au plus tard 14 jours après la date à laquelle l'ordre de l'agent d'aménagement a été signifié à la personne qu'il vise.	Formation de l'appel d'un ordre

Subdivision Appeals

Appels en matière de lotissement

Appeal of refusal of application	64. (1) A person whose application under subsection 43(1) to a municipal subdivision authority for approval of a proposed subdivision is refused, may appeal the refusal to the appeal board.	64. (1) La personne dont la demande visant un projet de lotissement présentée à l'autorité de lotissement municipale en vertu du paragraphe 43(1) est refusée peut en appeler du refus à la commission d'appel.	Appel du refus d'une demande
Appeal of rejection of plan	(2) A person whose plan of subdivision, submitted to a municipal subdivision authority under section 46, is rejected, may appeal the rejection to the appeal board.	(2) La personne dont le plan de lotissement présenté à l'autorité de lotissement municipale en vertu de l'article 46 est rejeté peut en appeler du rejet à la commission d'appel.	Appel du rejet d'un plan
Commencing subdivision appeal	(3) An appeal under subsection (1) or (2) must be commenced within 30 days after the day an application for approval of a proposed subdivision is refused or a plan of subdivision is rejected.	(3) L'appel en vertu des paragraphes (1) ou (2) doit être interjeté au plus tard 30 jours après la date du refus d'une demande d'approbation d'un projet de lotissement ou du rejet d'un plan de lotissement.	Formation de l'appel en matière de lotissement

Appeal Board Procedure, Evidence and Hearing

Règles de procédure, présentation de la preuve et audition de l'appel

Notice of appeal	65. (1) A notice of appeal to the appeal board must (a) state the reasons for the appeal; (b) summarize the supporting facts for each reason; (c) indicate the relief sought; and (d) if applicable, be submitted with the filing fee required by the zoning bylaw.	65. (1) L'avis d'appel à la commission d'appel doit, à la fois : a) indiquer les motifs d'appel; b) résumer les faits à l'appui des allégations; c) préciser le redressement demandé; d) être accompagné des droits de dépôt prévus dans le règlement de zonage, s'il y a lieu.	Avis d'appel
Person adversely affected	(2) A notice of appeal by a person appealing the approval of an application for a development permit under subsection 62(1) must state how he or she is adversely affected.	(2) La personne qui interjette appel de l'approbation d'une demande de permis d'aménagement en vertu du paragraphe 62(1) doit préciser les motifs pour lesquels elle se sent lésée.	Personne lésée
Hearing within 30 days	66. (1) The appeal board shall commence hearing an appeal within 30 days after the day the notice of appeal is received, and shall complete the hearing as soon as is reasonably practicable.	66. (1) La commission d'appel commence l'audition de l'appel au plus tard 30 jours après la date de réception de l'avis d'appel et la termine dans les meilleurs délais.	Délai d'audition de 30 jours
Notice	(2) The appeal board shall ensure that reasonable notice of a hearing is served on (a) the appellant;	(2) La commission d'appel veille à ce que les personnes suivantes reçoivent signification d'un avis d'audition raisonnable :	Avis

	<ul style="list-style-type: none"> (b) owners and lessees of land within 30 metres of the boundary of the land in respect of which the appeal relates; (c) the development authority, in the case of an appeal of a decision of a development authority; (d) the development authority and the development officer, in the case of an appeal of an order of a development officer; and (e) the municipal subdivision authority, in the case of an appeal of a decision of a municipal subdivision authority. 	<ul style="list-style-type: none"> a) l'appelant; b) les propriétaires et les locataires d'un bien-fonds dans un rayon de 30 mètres des limites du bien-fonds visé dans l'appel; c) l'autorité d'aménagement, s'il s'agit de l'appel de sa décision; d) l'autorité d'aménagement et l'agent d'aménagement, s'il s'agit de l'appel d'un ordre de l'agent d'aménagement; e) l'autorité de lotissement municipale, s'il s'agit de l'appel de sa décision. 	
Service	(3) Notice of a hearing may be served by <ul style="list-style-type: none"> (a) personal service; (b) registered mail; or (c) such other method as may be authorized by the regulations. 	(3) L'avis d'audition peut être signifié, selon le cas : <ul style="list-style-type: none"> a) à personne; b) par courrier recommandé; c) de toute autre façon prévue par règlement, le cas échéant. 	Signification
Rules of procedure	67. (1) Subject to this Act, the regulations and the zoning bylaw, an appeal board may establish rules of procedure for appeals.	67. (1) Sous réserve de la présente loi, des règlements et du règlement de zonage, la commission d'appel peut fixer les règles de procédure applicables aux appels.	Règles de procédure
Evidence	(2) Subject to the regulations, evidence may be given before the appeal board in any manner that it considers appropriate, including by telephone or by an audiovisual method, and the appeal board is not bound by the rules of evidence pertaining to actions and proceedings in courts of justice, but may proceed to ascertain the facts in the manner that it considers appropriate.	(2) Sous réserve des règlements, la présentation de la preuve devant la commission d'appel peut se faire par tout moyen que cette dernière estime indiquée, notamment par téléphone ou par méthode audiovisuelle; la commission d'appel n'est pas tenue aux règles de preuve qui régissent les actions et les poursuites devant les tribunaux judiciaires, et elle peut procéder à la vérification des faits de la façon qu'elle estime indiquée.	Présentation de la preuve
Oaths, affirmations	(3) The chairperson of the appeal board may administer oaths and affirmations, or in his or her absence an acting chairperson or vice-chairperson may do so.	(3) Le président de la commission d'appel peut faire prêter serment et recevoir les affirmations solennelles ou, en son absence, le président suppléant ou le vice-président peut le faire.	Serments, affirmations solennelles
Quorum	(4) A majority of members of the appeal board constitute a quorum for hearing an appeal, but subject to subsection (5), if a member is disqualified from hearing the matter or becomes unable to continue with a hearing, the appeal board may, in the absence of the member or members, conduct or continue the hearing with less than a majority.	(4) La majorité des membres de la commission d'appel constitue le quorum pour siéger à un appel. Toutefois, sous réserve du paragraphe (5), si un membre est dessaisi ou est incapable de poursuivre l'audition de l'appel, la commission d'appel peut, dans l'absence du ou des membres, instruire ou poursuivre l'appel en présence d'un nombre inférieur à la majorité.	Quorum
Requirement	(5) An appeal board may not conduct or continue a hearing with fewer than three members.	(5) La commission d'appel ne peut siéger à un appel ou le poursuivre en présence de moins de trois membres.	Exigence

Hearing public	(6) A hearing of the appeal board must be open to the public.	(6) L'audition devant la commission d'appel est publique.	Audition publique
Hearing	68. (1) At a hearing, the appeal board shall provide the persons referred to in subsection 66(2) with the opportunity to be heard, and may hear from any other persons that it considers necessary.	68. (1) Lors de l'audition de l'appel, la commission d'appel donne aux personnes visées au paragraphe 66(2) l'occasion de témoigner et peut entendre le témoignage de toute autre personne qu'elle juge essentiel.	Audition
Absence of person	(2) The appeal board may, on proof of service of notice of a hearing on a person referred to in subsection 66(2), proceed with the hearing in the absence of the person and determine the appeal in the same manner as if that person had attended.	(2) La commission d'appel peut, sur preuve de signification d'un avis d'appel à une personne visée au paragraphe 66(2), procéder à l'audition de l'appel en l'absence de cette personne et trancher l'appel comme si la personne y avait été présente.	Personne absente
Decision of Appeal Board		Décision de la commission d'appel	
Decision	69. (1) The appeal board may confirm, reverse or vary a decision appealed, and may impose conditions that it considers appropriate in the circumstances.	69. (1) La commission d'appel peut confirmer, infirmer ou modifier la décision portée en appel et peut imposer les conditions qu'elle juge indiquées en l'espèce.	Décision
Conflict with plans	(2) A decision of the appeal board on an appeal must not conflict with a zoning bylaw, subdivision bylaw, community plan or area development plan.	(2) La décision de la commission d'appel à la suite d'un appel ne doit pas être contraire au règlement de zonage, au règlement de lotissement, au plan directeur ou plan d'aménagement régional.	Incompatibilité avec les plans
Time limit	(3) The appeal board shall, within 60 days after the day on which a hearing is concluded, issue a written decision with reasons and provide a copy of the decision to the appellant and other parties to the appeal.	(3) La commission d'appel, dans un délai de 60 jours à compter de la fin d'une audition, rend une décision par écrit et motivée et en remet une copie à l'appelant et aux autres parties à l'appel.	Délai
Signature	(4) Decisions and other documents may be signed on behalf of the appeal board by the chairperson or by an acting chairperson or vice-chairperson, and when so signed may be admitted in evidence as proof of the decision or document without proof of the signature or the designation.	(4) Les décisions et les autres documents peuvent être signés au nom de la commission d'appel par le président, ou par le président suppléant ou le vice-président; cette signature est admissible en preuve et fait foi de la décision ou du document sans qu'il soit nécessaire de faire la preuve de l'authenticité de la signature ou de la désignation.	Signature
Decision public record	(5) A decision of the appeal board is a public record.	(5) La décision de la commission d'appel constitue un document public.	Document public
No appeal	70. A decision of the appeal board is final and binding on all parties and is not subject to appeal.	70. La décision de la commission d'appel est finale et exécutoire, et elle est sans appel.	Aucun appel
Subdivision Appeal to Arbitrator		Recours à l'arbitrage en matière de lotissement	
Arbitration: refusal of proposed subdivision	71. (1) If an application to the Director of Planning under subsection 43(1) for approval of a proposed subdivision is refused, the subdivision applicant may initiate an arbitration for the purpose of determining an appeal of the refusal.	71. (1) L'auteur d'une demande de lotissement dont la demande d'approbation d'un projet de lotissement présentée au directeur de la planification en vertu du paragraphe 43(1) est refusée peut prendre l'initiative d'un arbitrage pour décider de l'appel du refus.	Arbitrage : refus du projet de lotissement

Development Appeal Board

CITY OF YELLOWKNIFE

P.O. BOX 580,
YELLOWKNIFE, NT
X1A 2N4

Tel (867) 920-5646
Fax (867) 920-5649

September 2, 2020

200-D1-H2-2020

REGISTERED MAIL

Milan Mrdjenovich
994552 NWT Ltd.
#1000, 13920 Yellowhead Trail
Edmonton, AB T5L 3C2

Dear Mr. Mrdjenovich:

Re: Development Appeal Board Hearing - Permit No. PL-2019-0182

This letter is to formally notify you that Development Permit No. 2019-0182, which the City issued to you on August 11, 2020, has been appealed to the City's Development Appeal Board.

Pursuant to Section 3.10(2) of the City of Yellowknife's Zoning By-law, your Development Permit shall not come into effect until the appeal has been determined and the permit confirmed, modified or nullified thereby.

The Appeal Board will hold a public hearing on Sunday, September 20, 2020, at 12:00 noon in the Multiplex Gymnasium to consider this appeal. Please be advised that I am submitting an exemption request to the Chief Public Health Officer to hold the hearing at that location as the hearing must be public and to allow for physical distancing. As such I will need to know if anyone will be joining you and speaking on your behalf – please let me know as soon as possible.

With respect to the submission of written documentation for the Appeal Board's consideration, you are hereby informed that, pursuant to section 3.10(4)(a) of the Yellowknife Zoning By-law, all maps, plans, drawings and written material that you intend to submit in support of your development must be filed with the Secretary of the Appeal Board no later than ten days before the day fixed for the appeal. You have until 4:30 p.m. on Thursday, September 10, 2020 to submit your documentation to the Secretary of the Appeal Board at City Hall or via email to cityclerk@yellowknife.ca. Should your submission be too large to email, please contact me and we will make arrangements to provide you with our File Transfer Site.

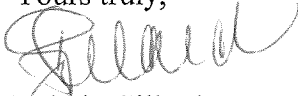
Enclosed are copies of the sections of the *Community Planning and Development Act* of the Northwest Territories and the City of Yellowknife Zoning By-law that describe the Appeal Board's composition and procedures.

200-D1-H2-20
September 2, 2020

Page 2

Please contact me should you have any questions with respect to the appeal.

Yours truly,



Debbie Gillard
Secretary
Development Appeal Board

DG/sj
Enclosure

DM#623441

Officer, that the new application addresses the reasons for the refusal.

3.10 Development Appeal Process

Section 3.10

Section 3.10 (1) (a) as amended by By-law No. 4913 Oct 24, 2016

- (1) (a) A person whose application for a development permit is refused or who is approved for a development permit subject to a condition that he or she considers to be unreasonable, may appeal the refusal or the condition to the Development Appeal Board pursuant to Section 61 of the *Community Planning and Development Act*, by serving written notice of appeal to the Secretary of the Board within 14 days after the day the application for the development permit is approved or refused;
- (b) A person claiming to be affected by a decision of the Development Officer or Council made under this by-law may appeal to the Development Appeal Board pursuant to Section 62 of the *Community Planning and Development Act*, by serving written notice of appeal to the Secretary of the Board within 14 days after the day the application for the development permit is approved

Section 3.10 (2) as amended by By-law No. 4913 October 24, 2016

- (2) Where an appeal is made, a development permit shall not come into effect until the appeal has been determined and the decision confirmed, reversed or varied.
- (3) An appeal must be heard by a quorum of the Development Appeal Board, and a quorum shall consist of at least 2 members and the Chairperson or an Acting Chairperson.
- (4) Hearing procedures are as follows:
 - (a) the appellant and any other interested party shall, not later than ten days before the day fixed for the hearing of the appeal, file with

-
- the Secretary of the Board all maps, plans, drawings and written material that they intend to submit to the Board or use at the hearing;
- (b) the Development Officer or Council shall, if required by the Board to do so, transmit to the Secretary of the Board, before the day fixed for the hearing of the appeal, the original or true copies of maps, plans, drawings and written material in its possession relating to the subject matter of the appeal;
 - (c) all maps, plans, drawings and written material, or copies thereof, filed or transmitted pursuant to this section shall, unless otherwise ordered by the Board, be retained by the Board and be part of its permanent records; but, pending the hearing of the appeal, all the material shall be made available for the inspection of any interested person;
 - (d) where a member of the Board has a conflict of interest in the matter before the Board, that member is not entitled to participate, deliberate, or vote thereon;
 - (e) in determining an appeal, the Board shall not:
 - i) approve development that is not permitted or conditionally permitted by this by-law in the zone in which the development is situated, or
 - ii) approve development in a manner that is incompatible with the General Plan;
 - (f) a decision concurred with by a majority of the Board present at the hearing is the decision of the Board;

Section 3.10(4) (g) as amended by By-law No. 4914 Oct 24, 2016

- (g) The decision of the Board shall be based on the facts and merits of the case and shall be in the form of a written report, including a summary of

all representations made at the hearing and setting forth the reasons for the decision and signed by the Chairperson or, in their absence, the acting Chairperson, and the Secretary and a copy of the decision shall be sent by the Secretary to the City and the appellant within 15 days of the date in which the decision was rendered plus all parties on whose behalf representations have been made, and to each interested person upon their request; and;

Section 3.10(4) (h) as amended by By-law No. 4913 Oct 24, 2016

(h) a decision of the Board is final and binding on all parties and is not subject to appeal.

3.11 Development Appeal Board

Section 3.11 (1) as amended by By-law No. 4913 Oct 24, 2016

(1) The Development Appeal Board is hereby established in accordance with the Section 30 of the *Community Planning and Development Act*.

(2) The Development Appeal Board shall:

(a) be composed of at least 3 persons and not more than seven, and one shall be a member of Council, but shall not include employees of the City;

(b) elect a chairperson;

(c) hold a hearing within 30 days after an appeal has been received;

Section 3.11(2) (d) as amended by By-law No. 4913 Oct. 16, 2016

(d) Ensure that reasonable notice of the hearing is given to the appellant, all owners and lessees of land within 30 metres of the boundary of the land in respect of which the appeal relates, and all other persons who in the opinion of the Board may be affected;

Section 3.11(2) (e) as amended by By-law No. 4913 Oct. 16, 2016

(e) consider each appeal having due regard to the circumstances and merits of the case and to the purpose, scope and intent of the General Plan, Area Development Plan, and any Council approved

plans or policies, and to this by-law;

- (f) where an appeal is heard, hear the appellant or the appellant's agent, the Development Officer and any other persons that it considers necessary for a full and proper hearing;
- (g) render its decision in writing to the appellant within 60 days after the date on which the hearing is held;

Section 3.11(2)(h) deleted by By-law No. 4913 Oct. 16, 2016 and subsections renumbered accordingly

(h)

- (i) conduct a hearing pursuant to Section 3.10 of this by-law.

(3) The Development Appeal Board may:

- (a) in determining an appeal, confirm, reverse or vary the decision appealed from and may impose conditions or limitations that it considers proper and desirable in the circumstances; and
- (b) appoint the City Clerk to act as Secretary for the Board.

(4) The Secretary for the Board shall:

- (a) ensure that reasonable notice of the hearing is given to the appellant and all persons who in the opinion of the Board may be affected;
- (b) prepare and maintain a file of the minutes of the business transacted at all meetings of the Board, copies of which shall be regularly filed with Council;
- (c) issue to the appellant and all affected parties a notice of the decision of the Board and the reasons therefore;

Section 3.11(4)(d) as amended by By-law No. 4913 Oct 26, 2016

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- (d) Notify the City of the decisions of the Board and the reasons therefore; and
 - (e) carry out administrative duties as the board may specify.

Section 3.12 added as per By-law No. 5002 August 26, 2019

3.12 Amending an Effective Development Permit

- (1) An Effective Development Permit may be amended by the Planning Administrator provided that:
 - (a) The request complies with all applicable regulations of this by-law;
 - (b) The amendment is directly related to the uses and conditions of the Effective Development Permit;
 - (c) There is no change in use.
- (2) All changes that do not meet the criteria set out in subsection (1) require a new development permit, pursuant to Part 3 of this By-law.
- (3) All amendments to Effective Development Permits must be provided in writing and sent to the applicant.

Use and development restricted	<p>(2) On the registration of a caveat,</p> <p>(a) the order binds the heirs, executors, administrators, assigns, transferees and successors in title of the owner of the land affected by the order; and</p> <p>(b) until the caveat is withdrawn, no use or development of the land or buildings located on it may take place except in accordance with the order.</p>	<p>(2) Dès l'enregistrement de l'opposition :</p> <p>a) d'une part, l'ordonnance lie, à l'égard du propriétaire du bien-fonds touché, ses héritiers, exécuteurs, administrateurs, cessionnaires et destinataires du transfert;</p> <p>b) d'autre part, jusqu'au retrait de l'opposition, aucun usage ou aménagement du bien-fonds ou des bâtiments situés sur celui-ci n'est possible si ce n'est conformément à l'ordonnance.</p>	Usage et aménagement restreints
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Withdrawal	<p>(3) A municipal corporation shall withdraw the caveat when the order of the Supreme Court has been complied with.</p>	<p>(3) La municipalité retire l'opposition lorsque l'ordonnance de la Cour suprême est respectée.</p>	Retrait
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Debt owed to municipal corporation	<p>60. Any expenses and costs of an action taken by a municipal corporation under subsection 58(4) to carry out an order of the Supreme Court are a debt owing to the municipal corporation by the person required by the order to comply, and may be recovered from the person in default by civil action for debt, or by charging it against real property of which the person is the owner in the same manner as arrears of property taxes under the <i>Property Assessment and Taxation Act</i>.</p>	<p>60. Les dépenses et les frais d'une action que prend la municipalité en vertu du paragraphe 58(4), en vue d'exécuter une ordonnance de la Cour suprême, constituent une créance de la municipalité à l'égard de la personne visée dans l'ordonnance, qui peut être recouvrée auprès de la personne en défaut soit en intentant une poursuite civile, soit en constituant une charge sur le bien réel dont la personne est le propriétaire évalué comme s'il s'agissait d'arriérés d'impôt foncier visés par la <i>Loi sur l'évaluation et l'impôt fonciers</i>.</p>	Créance de la municipalité
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DIVISION B - APPEALS

Development Appeals

Appeal of refusal or conditions	<p>61. (1) A person whose application to a development authority for a development permit is refused, or who is approved for a development permit subject to a condition that he or she considers to be unreasonable, may appeal the refusal or the condition to the appeal board.</p>
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Exception	<p>(2) A condition that is required by a zoning bylaw to be on a development permit is not subject to appeal under subsection (1).</p>
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Application deemed refused	<p>(3) For the purposes of subsection (1), an application to a development authority for a development permit is, at the option of the applicant, deemed to be refused if the decision of the development authority is not made within 40 days after the day the application is received in its complete and final form.</p>
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DIVISION B - APPELS

Appels en matière d'aménagement

Appel du refus ou des conditions	<p>61. (1) La personne dont la demande de permis d'aménagement a été refusée par l'autorité d'aménagement ou dont le permis d'aménagement est assorti d'une condition qu'elle estime déraisonnable peut en appeler du refus ou de la condition à la commission d'appel.</p>
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Exception	<p>(2) La condition obligatoirement assortie au permis d'aménagement en vertu d'un règlement de zonage ne peut faire l'objet d'un appel en vertu du paragraphe (1).</p>
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Demande réputée refusée	<p>(3) Aux fins du paragraphe (1), la demande de permis d'aménagement auprès d'une autorité d'aménagement est, au choix de son auteur, réputée refusée si la décision de l'autorité d'aménagement n'est pas prise dans un délai de 40 jours à compter de la date de réception de la demande sous forme finale.</p>
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Commencing development appeal	(4) An appeal under subsection (1) must be commenced by providing a written notice of appeal to the appeal board within 14 days after the day the application for a development permit is approved or refused.	(4) L'appel en vertu du paragraphe (1) se forme au moyen d'un avis d'appel écrit donné à la commission d'appel au plus tard 14 jours après la date d'approbation ou de refus de la demande de permis d'aménagement.	Formation de l'appel en matière d'aménagement
Appeal of development permit	<p>62. (1) A person other than an applicant for a development permit may only appeal to the appeal board in respect of an approval of an application for a development permit on the grounds that the person is adversely affected and</p> <ul style="list-style-type: none"> (a) there was a misapplication of a zoning bylaw in the approval of the application; (b) the proposed development contravenes the zoning bylaw, the community plan or an area development plan; (c) the development permit relates to a use of land or a building that had been permitted at the discretion of a development authority; (d) the application for the development permit had been approved on the basis that the specific use of land or the building was similar in character and purpose to another use that was included in a zoning bylaw for that zone; (e) the application for the development permit had been approved under circumstances where the proposed development did not fully conform with a zoning bylaw; or (f) the development permit relates to a non-conforming building or non-conforming use. 	<p>62. (1) Toute personne à l'exception de l'auteur d'une demande de permis d'aménagement peut en appeler à la commission d'appel concernant l'approbation d'une demande de permis d'aménagement au motif qu'elle est lésée et que, selon le cas :</p> <ul style="list-style-type: none"> a) il y a eu une erreur dans l'application du règlement de zonage lors de l'approbation de la demande; b) le projet d'aménagement contrevient au règlement de zonage, au plan directeur ou a plan d'aménagement régional; c) le permis d'aménagement vise un usage d'un bien-fonds ou d'un bâtiment qui avait été permis à la discrétion d'une autorité d'aménagement; d) la demande de permis d'aménagement avait été approuvée sur le fondement que l'usage particulier du bien-fonds ou du bâtiment était semblable quant à sa nature et à son but à un autre usage prévu dans le règlement de zonage à l'égard de cette zone; e) la demande de permis d'aménagement avait été approuvée à l'égard d'un projet d'aménagement qui ne respectait pas en tous points le règlement de zonage; f) le permis d'aménagement vise un bâtiment dérogatoire ou un usage non conforme. 	Appel d'un permis d'aménagement
Restriction	(2) For greater certainty, an appeal respecting the approval of an application for a development permit for a use specified in a zoning bylaw as a permitted use of land or a building, as referred to in subparagraph 14(1)(c)(i) or (ii) of this Act, may only be made if there is an alleged misapplication of the bylaw in the approval of the application.	(2) Il est entendu qu'un appel portant sur l'approbation d'une demande de permis d'aménagement visant un usage qu'un règlement de zonage précise comme usage permis d'un bien-fonds ou d'un bâtiment, visé aux sous-alinéas 14(1)c)(i) ou (ii) de la présente loi, n'est possible qu'en présence d'erreur présumée dans l'application du règlement de zonage lors de l'approbation de la demande.	Restriction
Commencing appeal of permit	(3) An appeal under subsection (1) must be commenced by providing a written notice of appeal to the appeal board within 14 days after the day the application for the development permit is approved.	(3) L'appel en vertu du paragraphe (1) se forme au moyen d'un avis d'appel écrit donné à la commission d'appel au plus tard 14 jours après la date d'approbation de la demande de permis d'aménagement.	Formation de l'appel du permis

Appeal of Order

Appel d'un ordre

Appeal to appeal board	63. (1) A person who is subject to an order issued by a development officer under subsection 57(1) of this Act, or under a zoning bylaw, may appeal the order to the appeal board.	63. (1) La personne visée dans un ordre de l'agent d'aménagement en vertu du paragraphe 57(1) de la présente loi ou d'un règlement de zonage peut en appeler de l'ordre à la commission d'appel.	Appel à la commission d'appel
Commencing appeal of order	(2) An appeal under subsection (1) must be commenced by providing a written notice of appeal to the appeal board within 14 days after the day the order of the development officer is served on the person.	(2) L'appel en vertu du paragraphe (1) se forme au moyen d'un avis d'appel écrit donné à la commission d'appel au plus tard 14 jours après la date à laquelle l'ordre de l'agent d'aménagement a été signifié à la personne qu'il vise.	Formation de l'appel d'un ordre

Subdivision Appeals

Appels en matière de lotissement

Appeal of refusal of application	64. (1) A person whose application under subsection 43(1) to a municipal subdivision authority for approval of a proposed subdivision is refused, may appeal the refusal to the appeal board.	64. (1) La personne dont la demande visant un projet de lotissement présentée à l'autorité de lotissement municipale en vertu du paragraphe 43(1) est refusée peut en appeler du refus à la commission d'appel.	Appel du refus d'une demande
Appeal of rejection of plan	(2) A person whose plan of subdivision, submitted to a municipal subdivision authority under section 46, is rejected, may appeal the rejection to the appeal board.	(2) La personne dont le plan de lotissement présenté à l'autorité de lotissement municipale en vertu de l'article 46 est rejeté peut en appeler du rejet à la commission d'appel.	Appel du rejet d'un plan
Commencing subdivision appeal	(3) An appeal under subsection (1) or (2) must be commenced within 30 days after the day an application for approval of a proposed subdivision is refused or a plan of subdivision is rejected.	(3) L'appel en vertu des paragraphes (1) ou (2) doit être interjeté au plus tard 30 jours après la date du refus d'une demande d'approbation d'un projet de lotissement ou du rejet d'un plan de lotissement.	Formation de l'appel en matière de lotissement

Appeal Board Procedure, Evidence and Hearing

Règles de procédure, présentation de la preuve et audition de l'appel

Notice of appeal	65. (1) A notice of appeal to the appeal board must (a) state the reasons for the appeal; (b) summarize the supporting facts for each reason; (c) indicate the relief sought; and (d) if applicable, be submitted with the filing fee required by the zoning bylaw.	65. (1) L'avis d'appel à la commission d'appel doit, à la fois : a) indiquer les motifs d'appel; b) résumer les faits à l'appui des allégations; c) préciser le redressement demandé; d) être accompagné des droits de dépôt prévus dans le règlement de zonage, s'il y a lieu.	Avis d'appel
Person adversely affected	(2) A notice of appeal by a person appealing the approval of an application for a development permit under subsection 62(1) must state how he or she is adversely affected.	(2) La personne qui interjette appel de l'approbation d'une demande de permis d'aménagement en vertu du paragraphe 62(1) doit préciser les motifs pour lesquels elle se sent lésée.	Personne lésée
Hearing within 30 days	66. (1) The appeal board shall commence hearing an appeal within 30 days after the day the notice of appeal is received, and shall complete the hearing as soon as is reasonably practicable.	66. (1) La commission d'appel commence l'audition de l'appel au plus tard 30 jours après la date de réception de l'avis d'appel et la termine dans les meilleurs délais.	Délai d'audition de 30 jours
Notice	(2) The appeal board shall ensure that reasonable notice of a hearing is served on (a) the appellant;	(2) La commission d'appel veille à ce que les personnes suivantes reçoivent signification d'un avis d'audition raisonnable :	Avis

- (b) owners and lessees of land within 30 metres of the boundary of the land in respect of which the appeal relates;
- (c) the development authority, in the case of an appeal of a decision of a development authority;
- (d) the development authority and the development officer, in the case of an appeal of an order of a development officer; and
- (e) the municipal subdivision authority, in the case of an appeal of a decision of a municipal subdivision authority.

- a) l'appelant;
- b) les propriétaires et les locataires d'un bien-fonds dans un rayon de 30 mètres des limites du bien-fonds visé dans l'appel;
- c) l'autorité d'aménagement, s'il s'agit de l'appel de sa décision;
- d) l'autorité d'aménagement et l'agent d'aménagement, s'il s'agit de l'appel d'un ordre de l'agent d'aménagement;
- e) l'autorité de lotissement municipale, s'il s'agit de l'appel de sa décision.

Service	(3) Notice of a hearing may be served by <ul style="list-style-type: none"> (a) personal service; (b) registered mail; or (c) such other method as may be authorized by the regulations. 	(3) L'avis d'audition peut être signifié, selon le cas : <ul style="list-style-type: none"> a) à personne; b) par courrier recommandé; c) de toute autre façon prévue par règlement, le cas échéant. 	Signification
Rules of procedure	67. (1) Subject to this Act, the regulations and the zoning bylaw, an appeal board may establish rules of procedure for appeals.	67. (1) Sous réserve de la présente loi, des règlements et du règlement de zonage, la commission d'appel peut fixer les règles de procédure applicables aux appels.	Règles de procédure
Evidence	(2) Subject to the regulations, evidence may be given before the appeal board in any manner that it considers appropriate, including by telephone or by an audiovisual method, and the appeal board is not bound by the rules of evidence pertaining to actions and proceedings in courts of justice, but may proceed to ascertain the facts in the manner that it considers appropriate.	(2) Sous réserve des règlements, la présentation de la preuve devant la commission d'appel peut se faire par tout moyen que cette dernière estime indiquée, notamment par téléphone ou par méthode audiovisuelle; la commission d'appel n'est pas tenue aux règles de preuve qui régissent les actions et les poursuites devant les tribunaux judiciaires, et elle peut procéder à la vérification des faits de la façon qu'elle estime indiquée.	Présentation de la preuve
Oaths, affirmations	(3) The chairperson of the appeal board may administer oaths and affirmations, or in his or her absence an acting chairperson or vice-chairperson may do so.	(3) Le président de la commission d'appel peut faire prêter serment et recevoir les affirmations solennelles ou, en son absence, le président suppléant ou le vice-président peut le faire.	Serments, affirmations solennelles
Quorum	(4) A majority of members of the appeal board constitute a quorum for hearing an appeal, but subject to subsection (5), if a member is disqualified from hearing the matter or becomes unable to continue with a hearing, the appeal board may, in the absence of the member or members, conduct or continue the hearing with less than a majority.	(4) La majorité des membres de la commission d'appel constitue le quorum pour siéger à un appel. Toutefois, sous réserve du paragraphe (5), si un membre est dessaisi ou est incapable de poursuivre l'audition de l'appel, la commission d'appel peut, dans l'absence du ou des membres, instruire ou poursuivre l'appel en présence d'un nombre inférieur à la majorité.	Quorum
Requirement	(5) An appeal board may not conduct or continue a hearing with fewer than three members.	(5) La commission d'appel ne peut siéger à un appel ou le poursuivre en présence de moins de trois membres.	Exigence

Hearing public	(6) A hearing of the appeal board must be open to the public.	(6) L'audition devant la commission d'appel est publique.	Audition publique
Hearing	68. (1) At a hearing, the appeal board shall provide the persons referred to in subsection 66(2) with the opportunity to be heard, and may hear from any other persons that it considers necessary.	68. (1) Lors de l'audition de l'appel, la commission d'appel donne aux personnes visées au paragraphe 66(2) l'occasion de témoigner et peut entendre le témoignage de toute autre personne qu'elle juge essentiel.	Audition
Absence of person	(2) The appeal board may, on proof of service of notice of a hearing on a person referred to in subsection 66(2), proceed with the hearing in the absence of the person and determine the appeal in the same manner as if that person had attended.	(2) La commission d'appel peut, sur preuve de signification d'un avis d'appel à une personne visée au paragraphe 66(2), procéder à l'audition de l'appel en l'absence de cette personne et trancher l'appel comme si la personne y avait été présente.	Personne absente
Decision of Appeal Board		Décision de la commission d'appel	
Decision	69. (1) The appeal board may confirm, reverse or vary a decision appealed, and may impose conditions that it considers appropriate in the circumstances.	69. (1) La commission d'appel peut confirmer, infirmer ou modifier la décision portée en appel et peut imposer les conditions qu'elle juge indiquées en l'espèce.	Décision
Conflict with plans	(2) A decision of the appeal board on an appeal must not conflict with a zoning bylaw, subdivision bylaw, community plan or area development plan.	(2) La décision de la commission d'appel à la suite d'un appel ne doit pas être contraire au règlement de zonage, au règlement de lotissement, au plan directeur ou plan d'aménagement régional.	Incompatibilité avec les plans
Time limit	(3) The appeal board shall, within 60 days after the day on which a hearing is concluded, issue a written decision with reasons and provide a copy of the decision to the appellant and other parties to the appeal.	(3) La commission d'appel, dans un délai de 60 jours à compter de la fin d'une audition, rend une décision par écrit et motivée et en remet une copie à l'appelant et aux autres parties à l'appel.	Délai
Signature	(4) Decisions and other documents may be signed on behalf of the appeal board by the chairperson or by an acting chairperson or vice-chairperson, and when so signed may be admitted in evidence as proof of the decision or document without proof of the signature or the designation.	(4) Les décisions et les autres documents peuvent être signés au nom de la commission d'appel par le président, ou par le président suppléant ou le vice-président; cette signature est admissible en preuve et fait foi de la décision ou du document sans qu'il soit nécessaire de faire la preuve de l'authenticité de la signature ou de la désignation.	Signature
Decision public record	(5) A decision of the appeal board is a public record.	(5) La décision de la commission d'appel constitue un document public.	Document public
No appeal	70. A decision of the appeal board is final and binding on all parties and is not subject to appeal.	70. La décision de la commission d'appel est finale et exécutoire, et elle est sans appel.	Aucun appel
Subdivision Appeal to Arbitrator		Recours à l'arbitrage en matière de lotissement	
Arbitration: refusal of proposed subdivision	71. (1) If an application to the Director of Planning under subsection 43(1) for approval of a proposed subdivision is refused, the subdivision applicant may initiate an arbitration for the purpose of determining an appeal of the refusal.	71. (1) L'auteur d'une demande de lotissement dont la demande d'approbation d'un projet de lotissement présentée au directeur de la planification en vertu du paragraphe 43(1) est refusée peut prendre l'initiative d'un arbitrage pour décider de l'appel du refus.	Arbitrage : refus du projet de lotissement