



Memo

TO: Mayor and Council

SUBJECT: Subdivision, Works, and Services Bylaw

DATE: February 16, 2023

FROM: Chief Administrative Officer

BACKGROUND

Bylaw 1082-2022 was given first and second readings, but concerns were raised about road widths and road cross-sections. The Contract Planner, the Superintendent and I met on January 16th, 2023, to resolve council's concerns but apparently the Fire Chief had also expressed concerns. I discussed the issue with Doug Knott and his concern was mainly with the development by Elk Road which for council's information was regulated by the current bylaw and not the one now being proposed.

When approvals of proposed subdivisions are submitted these are always vetted through the Public Works and Fire departments. The issues at Elk Road were what prompted belated staff concerns. The proposed bylaw is meant to alleviate those concerns but without input prior to construction those concerns may at this point be moot given that the developers were issued with construction permits.

The following changes were made after the first and second readings:

1. Added the driveway location and on street parking plan requirements to the preliminary and tentative plan requirements;
2. Added a provision that the cul-de-sac with amenities (15 m right of way) is subject to the approving officer;
3. Revised the half street cross section to incorporate the Superintendent's recommended change from 3.2 to 3.5 m width.

The relevant sections of the proposed bylaw that provides additional controls are coloured in the attachment.

Joseph A. Fernandez

**TOWN OF LAKE COWICHAN
BYLAW NO. 1082-2022**

**A BYLAW TO REGULATE THE SUBDIVISION, DEVELOPMENT AND
SERVICING OF LAND**

WHEREAS it is Council’s vision to create a vibrant, healthy, sustainable community that exists in harmony with the natural environment, enjoys a balanced economy, supports all generations, and provides the opportunities to satisfy diverse social needs;

AND WHEREAS it is deemed desirable to guide municipal growth for the ultimate benefit of the community by ensuring that land is subdivided in an orderly and economical way to produce a safe, sufficient, convenient, and healthful environment and to preserve and enhance its natural amenities;

AND WHEREAS Council deems it is expedient to ensure that the subdivision and development of land does not create a capital cost to the Town of providing public utilities or other works and services that would be a burden on the existing taxpayers;

AND WHEREAS the passage of this bylaw has met all the requirements pursuant to the Land Title Act, Strata Property Act, and the Local Government Act;

NOW THEREFORE the Council of the Town of Lake Cowichan in open meeting assembled, enacts the following:

1. TITLE

This bylaw may be cited for all purposes as the "Town of Lake Cowichan Subdivision, Works and Services Bylaw No. 1082-2022."

2. APPLICATION

2.1. The provisions of this Bylaw apply to all lands within the area incorporated as the Town of Lake Cowichan. This Bylaw does not apply to any subdivision or building permit for which application was made prior to the date of coming into force of this Bylaw provided that such application is completed within 12 months of adoption of Bylaw 1082-2022.

2.2. The purpose of this Bylaw is to regulate:

- a) subdivision and development of land including the lot arrangement, overall layout design and the construction of highways;
- b) ensure adequate works and services in order to promote orderly and efficient developments in harmony with the environment and that are suited to the uses for which they are intended, and
- c) for building construction not requiring the subdivision of land, ensure the construction of highways and works and services that may be required to address any deficiencies.

2.3. This Bylaw should be used in conjunction with the Schedules to this bylaw, Town of Lake Cowichan Zoning Bylaw 1055-2021, as amended, and the Town of Lake Cowichan Official Community Plan Bylaw 1022-2019, as amended. Users of this Bylaw are advised that they should also be knowledgeable of the requirements of other applicable Provincial Legislation including without limitation the:

- a) Land Title Act;
- b) Local Government Act;
- c) Community Charter;



- d) Strata Property Act and Bare Land Strata Regulations;
 - e) Agricultural Land Commission Act;
 - f) Real Estate Act;
 - g) Land Survey Act;
 - h) Forest Land Reserve Act;
 - i) Waste Management Act;
 - j) Highway Act;
 - k) Builders Lien Act;
 - l) Water Act;
 - m) Riparian Areas Regulation (Fish Protection Act); and
 - n) Oil and Gas Activities Act.
- 2.4 As a condition of the approval of a subdivision or the issuance of a building permit the owner of the land is required to provide works and services in accordance with the standards established in this bylaw, on that portion of a highway immediately adjacent to the site being subdivided or developed, up to the center line of the highway.

3. **INTERPRETATION**

3.1 In this Bylaw, unless the context otherwise requires:

APPLICANT means a person applying for the approval of a subdivision, whether as the owner of the property proposed to be subdivided or as the agent for the owner;

APPROVING OFFICER means the person appointed by council to act in accordance with the Land Title Act as may be amended from time to time;

BOUNDARY ADJUSTMENT means an adjustment in existing boundaries between legally defined parcels of land that does not create additional parcels;

BUILDING CODE means the British Columbia Building Code, latest edition;

ROAD means the portion of a highway constructed for vehicular traffic;

ROAD, ARTERIAL means the road which is designated on any current plan of roads or of proposed roads which is intended to carry a substantial volume of inter-community traffic as well as traffic other than having its origin or destination in parcels abutting thereon; the Town currently has no roads designated as an arterial road;

ROAD, COLLECTOR means a road which is so designated on any current municipal plan of roads or of proposed roads; or a road which is designated to form part of the road system of the Town and carries a substantial volume of traffic other than traffic having its origin or destination in parcels abutting on the street, and located to provide efficient inter-connection of major destinations and local roads; cross section elements are defined in Schedule A to this bylaw;

ROAD, LOCAL means a road that serves low traffic volumes, and which is so designated on any current plan of streets or of proposed streets, or a street which is used or intended to be used primarily provide access to parcels abutting thereon and serves low traffic volumes; cross section elements are defined in Schedule A to this bylaw;

CUL-DE-SAC means a road which terminates permanently or temporarily with a vehicular turning area for motor vehicles;

COMPLETION for the purpose of assessing applications, means a Servicing Agreement has been executed or a pre-construction meeting has been held with Town representatives;



CONSTRUCTION ACCEPTANCE means the Town's acceptance of the construction of Works and Services provided by a Developer pursuant to this Bylaw, subject to the obligation of the Developer to remedy defects and deficiencies becoming apparent during the Warranty Period;

DEVELOPMENT means construction of works and services and includes any construction for which a building permit is required;

ENGINEER means a person who is registered or licensed as a professional engineer registered under the Engineers and Geoscientists Act and retained by the Owner to design, supervise and certify the construction and installation of Works and Services required by this Bylaw;

FINAL ACCEPTANCE means the Town's acceptance of Works and Services provided pursuant to this Bylaw at the end of the warranty period with all defects and deficiencies remedied to the satisfaction of the Superintendent of Public Works;

FINAL APPROVAL means that approval granted by the Approving Officer when all relevant requirements of this bylaw, the Land Title Act and any other relevant bylaws and legislation have been fulfilled;

FRONTAGE means the width of the lot measured at the Front Lot Line;

HIGHWAY means all public streets, roads, trails, lanes, thoroughfares, bridges, and other public ways;

INTENDED USE means the use of land proposed for a parcel of land which is planned to be created by subdivision;

LANE means a highway more than ten feet but less than thirty feet in width which provides secondary means of access to a site;

LOT means an area or land the boundaries of which are shown on a plan registered in a Land Title Office, or with a Crown Land Registry, or are described in the certificate of title of the land, and that has not been divided into smaller areas by a plan or instrument registered in the Land Title Office, or with a Crown Land Registry;

LOT DEPTH means the distance between the midpoints of straight lines connecting the foremost points of the site lot lines in front and the rearmost points of the side lot lines in the rear;

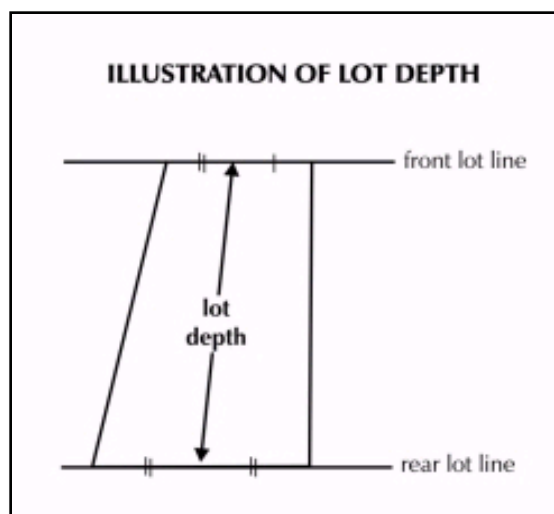


Figure 1 Illustration of Lot Depth



LOT, PANHANDLE means a lot which requires a relatively narrow strip of land, or panhandle, to provide principal vehicle access to a street and where the lot frontage on a highway is less than 10% of the lot perimeter;



Figure 2 Illustration of Panhandle Lot

LOT LINE, FRONT means the lot line common to the lot and an abutting street, or where there is more than one lot line common to abutting streets, the shortest of these lines shall be considered as the front lot line;

LOT LINE, INTERIOR SIDE means a lot line not being a rear lot line common to more than one lot or to the lot and a lane;

LOT WIDTH means the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; in the case of lots on the turning circle of a cul-de-sac, the lot width shall be length of a straight line parallel to the arc of the cul-de-sac between the two side property lines, measured from a point 6 metres toward the rear of the lot;

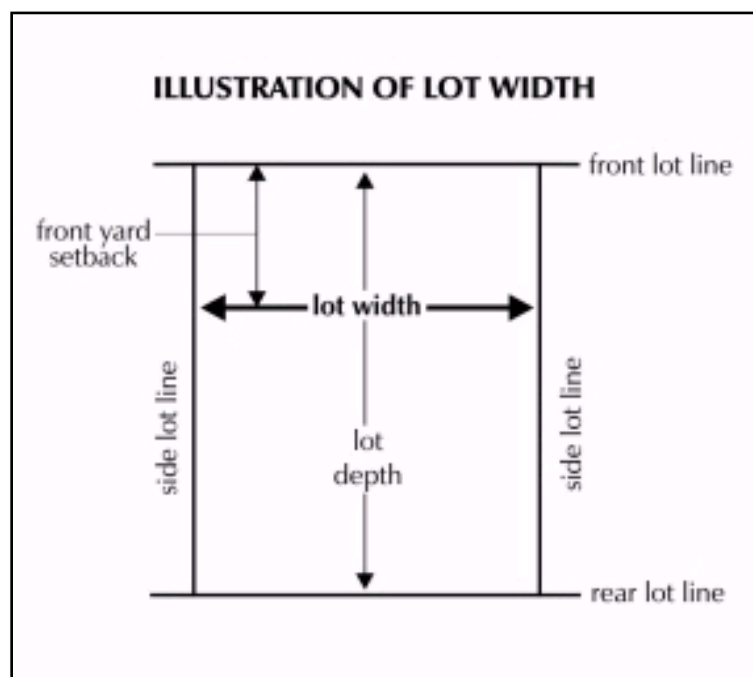


Figure 3 Illustration of Lot Width



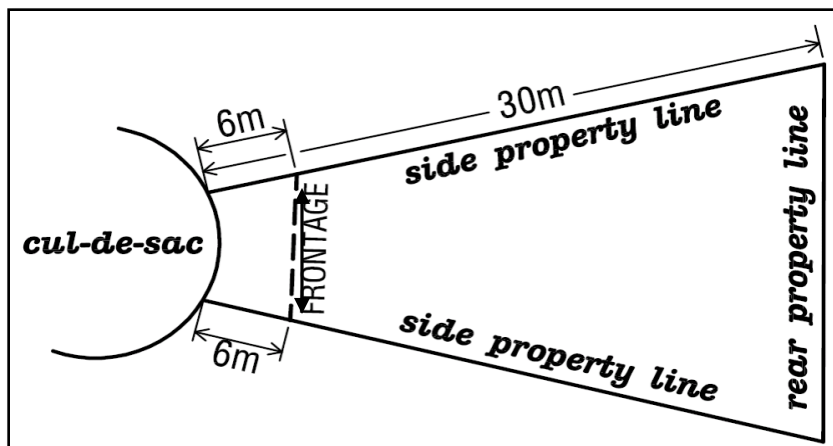


Figure 4 Illustration of Lot Width for Lots on a Cul-de-sac Turning Circle

OWNER AND REGISTERED OWNER shall mean any person registered in the books of the Land Title Office or Crown Land Registry Office as owner of the land or of any charge on the land being subdivided, whether entitled thereto in his, her, its, or their own right or in a representative capacity or otherwise;

PARCEL means any lot, block or other area in which land is held or into which land is subdivided;

PRELIMINARY LAYOUT APPROVAL (PLA) means the approval of a preliminary plan of subdivision submitted in the first application step in the process of review;

STREET includes all highways, roads, squares, thoroughfares and any other public way, but not lanes, walkways, trails and bridges;

STATUTORY RIGHT OF WAY means land or any interest in land acquired for the purpose of:

- (a) public right of passage with or without vehicles; or
- (b) erecting and maintaining any pole-line; or
- (c) laying, placing and maintaining drains, ditches, pipes, transmission lines or wires for the conveyance, transmission or transportation of water, telecommunication, electric power, forest products, oil or gas or both oil and gas or solids as defined in the Oil & Gas Activities Act; or
- (d) the transmission or disposal of sanitary sewage, storm water or drainage;
- (e) the operation and maintenance of any other undertaking of the Town; and shall include a statutory right-of-way as defined in the Land Title Act.;

SUBDIVISION means a change in the existing size, shape, number, or arrangement of registered parcels, whether or not involving the creation of a greater number of parcels than existing and whether carried out by plan, by metes and bounds, strata plan, bare land strata plan, or otherwise;

TOWN means the Town of Lake Cowichan;

WALKWAY means a public passageway for pedestrian traffic and to accommodate necessary utility and drainage services which is not less than ten feet nor more than twenty feet wide;

WORKS AND SERVICES means construction such as roadways, lanes, drainage, water and sewer systems, earthworks and slope stabilization, sidewalks, walkways, boulevards, landscaping, street lighting and underground wiring, and includes works and services whether on highways, rights of way or common property, to be provided for in a subdivision or development of land under this bylaw;

WORKS AND SERVICES AGREEMENT means an agreement prescribed by the Town between the Town and the owner in accordance with the Local Government Act, as may be amended from time to time, that works and services will be completed to service a subdivision or development by a date specified in the agreement and that sufficient security has been provided to the Town to secure the construction of those works; and



ZONING BYLAW means the zoning bylaw currently regulating land use in the Town.

- 3.2 Unless otherwise defined herein, any work or expression in this bylaw shall have the same meaning as any similar word or expression contained in the "Land Title Act" or "Local Government Act" as may be amended from time to time, or as the same may be re-enacted from time to time.

4. **ADMINISTRATION**

- 4.1 The provisions of this bylaw shall be administered by the Chief Administrative Officer (CAO) or such other Officer as may from time to time be appointed by resolution of the Council.
- 4.2 The Approving Officer shall be the Chief Administrative Officer (CAO) or such other Officer as may from time to time be appointed by resolution of the Council.
- 4.3 No land within the Town shall be subdivided until approval by the Approving Officer has been obtained.
- 4.4 The determination of any excess or extended services, as defined by the Local Government Act, as may be amended from time to time, to be provided by the applicant is delegated to the Superintendent of Public Works.
- 4.5 The prescription and execution of any Works and Services agreement is delegated to the Superintendent of Public Works.

5. **GENERAL PROVISIONS**

- 5.1 The Approving Officer shall approve or reject every application for the subdivision of land.
- 5.2 The Approving Officer may:
- (a) bring the proposed subdivision to the attention of the owners of neighbouring property, or of other municipal officials, or of other public bodies or officials or of utility companies, for comment and recommendation;
 - (b) serve notice or require that the applicant serve notice of the proposed subdivision on the owner or other person whose land or interest therein, in his opinion, might be detrimentally affected by it; and
 - (c) require the submission of profiles of every new street and land shown on the plan, and such topographical details as may indicate the engineering problems involved in developing such streets and lanes.
- 5.3 The Approving Officer shall not grant approval of any subdivision of land:
- (a) unless all the requirements of this Bylaw and all other Bylaws have been met;
 - (b) where the proposed subdivision fails to regard any official community plan provisions applicable to the area being proposed for subdivision;
 - (c) if there is any cost to the Town of providing public utilities and other works and services to the anticipated subdivision;
 - (d) if, in his or her opinion, the anticipated development of the subdivision would injuriously affect the established amenities of adjoining or adjacent properties, or would be against the public interest;
 - (e) unless all regulations controlling access to the land to be subdivided are complied with; and
 - (f) that is otherwise contrary to law.
- 5.4 The Approving Officer shall not approve any scheme or plan of subdivision which:
- (a) is not suited to the configuration of the land being subdivided; or
 - (b) is not suited to the use to which it is intended; or



- (c) will make impracticable the future subdivision of the land within the proposed subdivision or any adjacent land; or
- (d) leaves any portion of a parcel being subdivided described as a remainder of such parcel unless, in the opinion of the Approving Officer, such remainder may be further subdivided and the Approving Officer has reason to believe that such subdivision will occur.

6. **SUBDIVISION DESIGN AND ARRANGEMENT**

- 6.1 Except as otherwise provided, the minimum frontage and depth of lots shall be as follows:

Zone District	Minimum Lot Frontage (in metres)	Minimum Lot Depth (in metres)
Residential		
R-1 Suburban	An average of 17 in any created subdivision	25
R-2 Urban		25
R-3 Urban Core		25
R-4 Medium density	An average of 12 in any created subdivision	20
R-5 Single Detached and Duplex		20
R-6 Small House	An average of 11 in any created subdivision	18
R-7 Multi-unit	An average of 18 in any created subdivision	none
Commercial		
C-1	Minimum 10% of lot perimeter	20
C-1-A		
C-1-B		
C-2	18	27
C-3	Minimum 10% of lot perimeter	20
C-4		20
Industrial		
M-1	Minimum 10% of lot perimeter	27
M-2		
Institutional		
P-1	Minimum 10% of lot perimeter	27

- (a) Where the lot side lines are radial or nearly radial to a curved street alignment, where the lot side lines are not at right angles to the abutting street line, the 'Minimum Lot Frontage' set forth in clause (a) of this Section
 - i. may be reduced to not less than 67% of the minimum lot frontage established for the applicable Zone District where the lot is on the outside of the curve or where the lot side lines diverge from the front to the rear, provided the minimum width at the required front building



- line is not less than the required minimum lot frontage width for the applicable Zone District; or
- ii. shall be increased where the lot is on the inside of the curve or where the lot side lines converge from the front to the rear, to ensure that the minimum width at the required rear building line is not less than the required minimum lot frontage for the applicable Zone District.
- (b) The 'Minimum Lot Frontage' set forth in clause (a) of this section shall be increased by 1.5 metres for lots intended for residential use that have streets along the front lot line of the parcel and along one side lot line.
 - (c) The Approving Officer may vary the minimum lot depth and minimum lot width by up to 10% except for the 'minimum 10% of perimeter standard,' and provided the dimensions of the lots do not conflict with minimum lot areas prescribed by the Zoning Bylaw.
 - (d) Notwithstanding the provisions set forth in clause (a) of this section, in cases where environmental, topographical or exceptional parcel configurations exist, the Approving Officer may approve a subdivision with a "panhandle" lot in accordance with the following standards and restrictions:
 - i. the subdivision has a maximum of 3 lots;
 - ii. the minimum road frontage is 6 metres;
 - iii. the lot area excludes the panhandle access; and
 - iv. any panhandle lot that does not provide a minimum frontage on a highway of 10% of the perimeter of the lot shall be referred to Council for consideration of an exemption from the statutory requirement under the Local Government Act, as may be amended from time to time.
- 6.2 Every lot to be created shall abut on a street.
- 6.3 Pedestrian walkways shall be dedicated and constructed where they are deemed by the Approving Officer to be essential to provide safe circulation or access to schools, playgrounds, shopping centres, transportation, beaches, and other community facilities or for proper circulation of pedestrian traffic. Such walkways shall have a minimum 3 metre right of way, a minimum width of 2.5 metres and be constructed in accordance with standards of the current version of the Master Municipal Construction Documents (MMCD).
- 6.4 Notwithstanding Section 6.1 of this Bylaw, no parcel shall be created which has an area less than that required by the standards for the relevant land use designation of the by the Zoning Bylaw.
- 6.5 Notwithstanding Section 6.1 of this Bylaw, the Approving Officer may refuse to authorize the creation of parcels meeting minimum size requirements where in his opinion, by reason of topography, soil or drainage conditions, such minimum standards would injuriously affect the established amenities of adjoining or adjacent properties or would be against the public interest.
- 6.6 Parcel that abuts a street at both front and rear shall not be permitted unless, in the opinion of the Approving Officer such an arrangement is essential:
- (a) to provide access to other parcels; or
 - (b) to provide a coherent arrangement of streets; or
 - (c) to compliment a future pattern of subdivision.
- 6.7 The Approving Officer shall ensure that:
- (a) no junctions or intersections of roads is designed to create an undue hazard to traffic;
 - (b) jogs in local or collector road alignment are avoided unless the distance between road centre lines at the jog is 60 metres or more;
 - (c) termination of streets shall be by a cul-de-sac in accordance with the current MMCD standards. Alternative design standards for termination shall only be considered when warranted by extenuating conditions such as topography and environmental constraints;



- (d) the maximum length of a terminating street shall not exceed 150 metres; and
 - (e) walkways are provided as and where required.
- 6.8 The Approving Officer shall ensure that lanes:
- (a) be provided in every case where, in the Approving Officer's opinion they are necessary;
 - (b) where provided, are arranged with due consideration to their continuity, from block to block, to facilitate utility construction; and
 - (c) have triangle corner cut-offs, measuring not less than three (3) metres each way from the corner.
- 6.9 Any non-navigable watercourse in lands to be subdivided may be made part of the municipal drainage system by dedication to the municipality at the time of subdivision where a right-of-way is not considered sufficient by the Approving Officer.
- 6.10 Notwithstanding the standards in Subsection 6.7 and 6.8, the Approving Officer may approve reasonable variances to those standards.

6.11 Streamside Protection and Enhancement Areas (SPEA)

- (a) Except as may be determined by the Approving Officer in exceptional cases, no SPEA designated land shall be included within a lot intended for development.
- (b) SPEA designated land within its own separate lot (s) shall be dedicated to the Town as open space or to a community or strata corporation.
- (c) In cases where the SPEA is incorporated within a lot intended for development, the maximum permissible area of the SPEA is 25% of the lot area.

7. WORKS & SERVICES REQUIREMENTS

- 7.1 Prior to the issuance of a building permit, The Town may require a Developer to provide Works directly attributable to a Development on a Development site for which no subdivision application is required.
- 7.2 The Town may require a Developer to provide Works directly attributable to the Subdivision or a Development on that portion of a Highway immediately adjacent to a site being subdivided or developed up to the centre line of the Highway. Such Works may include the upgrading or replacing of existing Works that are of lower standard than required by this Bylaw and may include off-site improvements such as water, sanitary and storm sewer services, sidewalks, trails and roadways necessary to serve the development.
- 7.3 Road Improvements shall be made in accordance with the road classification in Map 2 Mobility & Transportation of the Official Community Plan for Main Street (collector road status) and Collector Roads (existing and future) and the road cross section design criteria specified in Part 2 of Schedule A to this Bylaw. Improvements to any local roads shall be in accordance with Part 2 of Schedule 'A' to this Bylaw.
- 7.4 As directed by the Approving Officer the applicant for a subdivision, or building permit subject to Sections 7.1 and 7.2 shall provide without compensation;
- (a) highways up to a width of 20 metres;
 - (b) land of a width not exceeding 10 metres for the purpose of widening a road to 20 metres;
 - (c) planting of boulevard trees in accordance with the criteria in Schedule 'A' to this Bylaw; and
 - (d) additional boulevard landscaping as may be required by the Approving Officer.



- 7.5 The following shall be completed at the sole expense of the applicant:
- (a) the removal of all structures encroaching upon and of obstructions of any kind to, the free and uninterrupted use by the public of the full width and extent of all new roads;
 - (b) the clearing of all new roads to at least the minimum standard set forth in the Master Municipal Construction Documents, as amended from time to time, and Schedule 'A' of this Bylaw;
 - (c) the grading, draining, and surfacing of all new roads to at least the minimum standard set forth in the Master Municipal Construction Documents, as amended from time to time, and Schedule 'A' of this Bylaw;
 - (d) the connecting to the public waterworks system of the Town of a complete and fully operative system of water mains, valves, valve chambers and hydrants to at least the minimum standard set forth in the Master Municipal Construction Documents, as amended from time to time, and Schedule 'A' of this Bylaw;
 - (e) the connecting to the public sanitary sewer system of the Town of a complete and fully operative system of lateral sewers, manholes, necessary pumping stations and connections extending to and connected with the appropriate public sewage pumping stations, or other appropriate points of connection to the public sewer system and all of the said works shall be constructed to at least the minimum standard set forth in the Master Municipal Construction Documents, as amended from time to time, and Schedule 'A' of this Bylaw;
 - (f) the connecting to the public storm sewer system of the Town of a complete and fully operative system of lateral sewers, manholes, necessary pumping stations and connections extending to and connected with the appropriate public sewage pumping stations or other appropriate points of connection to the public sewer system and all of the said works shall be constructed to at least the minimum standard set forth in Master Municipal Construction Documents, as amended from time to time, and Schedule 'A' of this Bylaw;
 - (g) the construction of curbing on all new highways to at least the minimum standard set forth in the Master Municipal Construction Documents, as amended from time to time, and Schedule 'A' of this Bylaw;
 - (h) the construction of sidewalks, where required, to at least the minimum standard set forth in the Master Municipal Construction Documents, as amended from time to time, and Schedule 'A' of this Bylaw; and
 - (i) the construction of underground telecommunication, electrical service and street-lighting connections, where required, to at least the minimum standards set forth in the Master Municipal Construction Documents, as amended from time to time, and Schedule 'A' of this Bylaw.
- 7.6 The Approving officer shall determine whether park land is to be provided or a payment is to be made in accordance with the Local Government Act, as may be amended from time to time, considering whether there is sufficient land in the vicinity of the proposed subdivision for public park and open space, and shall determine the location and configuration of any park land to be provided in accordance with the following considerations:
- (a) suitability for active and passive recreation;
 - (b) suitable access;
 - (c) safety for users; and
 - (d) community needs.
- 7.7 All works required to be done herein in connection with the subdivision and/or development of any lands shall be completed in accordance with the Master Municipal Construction Documents, as amended from time to time, and Schedule 'A' of this Bylaw.



- 7.8 At the sole discretion of the Town Administrator, a plan of subdivision may be approved prior to the completion of the required works, if the owner of such lands:
- (a) deposits in cash with the Town or an irrevocable letter of credit from a bank or other financial institution in a form approved by the Town Administrator with the Town in the amount of 120% of the estimate by an Engineer of the cost of installing and paying for all work and services required by this subdivision bylaw before the subdivision plan is approved by the Approving Officer, and shall enter into a form of agreement prescribed by the Town to do the work.
 - (b) Release of cash deposits or other financial guarantees shall be made in according to the following:
 - i. if the total estimated value of construction is less than \$10,000.00, no releases will be permitted;
 - ii. if the total estimated value of construction is \$10,000.00 or greater, but less than \$100,000.00, up to 75% of the deposit may be released. when the constructed works have been completed in compliance with the specifications contained herein, and inspected and approved by a qualified professional Engineer; and
 - iii. if the total estimated value of construction is \$100,000.00 or greater, up to 85% of the deposit may be released when the constructed works have been completed in compliance with the specifications contained herein, and inspected and approved by a qualified professional Engineer.
 - (c) Upon satisfaction of the relevant provisions in article b) above, any remaining cash or letter of credit deposited with the Town will be returned to the owner:
 - i. one year after the date of approval of the works by the Town and the Town shall deduct from this remainder the cost of repairing any damage to the said works during the one-year period except such damage as is the result of the negligence of the Town, its servants or agents; or
 - ii. upon the deposit of a bond of maintenance in a form acceptable to the Town guaranteeing payment of all costs of maintenance to the works for a period of one year from the date of approval thereof by the Town except such maintenance as is required from damage to the works caused by the negligence of the Town, its servants or agents.
- 7.9 Every applicant for approval of a subdivision shall pay all school taxes and all municipal taxes, rates and charges, assessed and levied against the lands to be subdivided, and where such taxes, rates and charges for the then current year have not been assessed, levied and imposed on the said lands at the date on which the subdivision is submitted for tentative plan approval, pay the amount estimated by the Collector to be the total of the school taxes, municipal taxes, rates and charges to be assessed, levied and imposed on the said lands for the then current year.
- 7.10 Where application for Tentative Approval of a subdivision is made at any time between the 30th day of June and the 31st day of December in any year, the applicant therefore shall pay all school taxes and all municipal taxes, rates and charges assessed and levied against the lands to be subdivided and which are outstanding and owing at the date of such application, together with a deposit in the amount estimated by the Collector to be the total of the school taxes, municipal taxes, rates and charges to be assessed, levied and imposed on the said lands for the next succeeding year; which deposit shall be held by the Town and applied towards payment of the taxes, rates and charges to be assessed, imposed and levied on the said lands in the next succeeding year, in the event that the subdivision approval is not registered prior to the preparation, completion and authentication of the assessment roll for that year.
- 7.11 Where any deposit made pursuant to Section 7.7 hereof is held by the Town and the subdivision is registered and the new parcels created thereby are placed or are to be placed on the assessment roll for the next succeeding year, the said deposit shall be refunded to the applicant by the Collector forthwith upon receipt



of notification by the Assessor that the subdivision is registered and the new parcels created thereby have been placed or will be placed on the assessment roll for the next succeeding year.

- 7.12 Every payment made pursuant to the provisions of Section 7.6 hereof and every deposit made pursuant to the provisions of Section 7.7 hereof shall be deemed to be monies to be applied at a future date in payment of taxes pursuant to the Community Charter, as may be amended from time to time, and every such payment and deposit shall be accepted by the Collector subject to the provisions of the Community Charter, as may be amended from time to time.

8. **PROCEDURE**

8.1 **Preliminary Layout Approval (PLA)**

- (a) The applicant is encouraged to request a pre submittal design meeting with the Approving Officer, the Superintendent of Public Works, and the Town Planner to discuss the design concept, planning context, and submittal requirements.
- (b) The applicant may submit in writing to the Approving Officer, an application for preliminary acceptance which shall state the name and postal address of the applicant and the legal description and approximate location of the parcel to be subdivided.
- (c) The applicant shall submit to the Approving Officer a Preliminary Plan drawn to a scale of not less than one inch to one hundred feet clearly indicating:
- i. letter of authorization by the owner (s) of the land;
 - ii. registered covenants;
 - iii. the location and extent of protected and natural areas;
 - iv. watercourses and water frontages;
 - v. existing road frontages and road names;
 - vi. topographic information at 0.5-meter intervals;
 - vii. three (3) paper copies and one digital copy on a flash drive in PDF and DWG formats;
 - viii. a design professional stamp or signature;
 - ix. the dimensions and full legal description of the parcel or parcels to be subdivided;
 - x. the arrangement of the parcels and streets which would be created by the subdivision including the widths of the proposed streets and the dimensions of the proposed parcels and any proposed alterations of lot lines or subdivision of any existing parcels;
 - xi. the proposed locations for driveways for each lot to be created;
 - xii. a parking plan, identifying the proposed locations for all on-street parking;
 - xiii. existing property lines and streets to be eliminated by the proposed subdivision;
 - xiv. the relationship of the proposed subdivision to adjacent streets, and the connections of proposed new streets hereto;
 - xv. existing buildings accurately located and identified;
 - xvi. utility and other easements located and identified;
 - xvii. the intended use of each parcel to be created by the subdivision; and
 - xviii. the name and postal address of the applicant.
- (d) The Approving Officer may require the applicant to furnish:
- i. such additional information as may be required to determine the suitability of the area for subdivision or the suitability of the size, shape, and orientation of the parcels required;
 - ii. data on the measures necessary to remedy wet conditions or liability to flood; and
 - iii. report and map of natural hazards on and off site, including geotechnical conditions, avalanche, debris flows, steep slopes, wildfire, and any other relevant natural hazards; and
 - iv. a comprehensive Erosion and Sediment Control Plan as prepared by a qualified professional.



- (e) Where a physical examination of land is required, the Approving Officer may, at the cost of the owner of the land proposed to be subdivided, personally examine or have an examination or report made on the proposed subdivision, and
- (f) No application shall be accepted unless deemed complete by the Approving Officer
- (g) Within sixty (60) days of the receipt by the Approving Officer of the application, or any additional information required under this Bylaw or the Land Title Act, as may be amended from time to time, the Approving Officer shall, in writing, either refuse or grant preliminary acceptance.
- (h) In the case of refusal of preliminary layout approval, the notice of refusal shall explicitly state the reason for refusal.
- (i) The Approving Officer may grant conditional preliminary layout approval, which shall authorize the applicant to apply for Tentative Plan Approval subject to compliance with conditions he may specify in the notice of preliminary acceptance.
- (j) Preliminary Layout Approval, whether conditional or unconditional, shall:
 - i. be considered only as acceptance in principle;
 - ii. not exempt the applicant from securing both tentative plans approval and Final Approval prior to the deposit of the subdivision plan in the Land Title Office; and
 - iii. not bind the Approving Officer to grant either tentative plan approval or Final Approval. Preliminary Layout Approval shall:
 - a. be effective only for a period of 90 days provided that it may be renewed by the Approving Officer for one further period of 90 days, thereafter a new application for approval of the subdivision shall be required and shall be dealt with as an original application;
 - b. become void upon the coming into effect of any bylaw which would have caused the proposed plan of subdivision to be refused had such bylaw been in effect at the time of initial application; and
 - c. be subject to all Town bylaws and plans governing the proposed subdivision and the applicant shall be informed of their requirements.

8.2 Tentative Plan Approval

- (a) The applicant may submit in writing to the Approving Officer an application for Tentative Plan approval after compliance with the requirements and conditions set out in the Preliminary Layout Approval and after receiving preliminary acceptance in writing from the Approving Officer. He shall state the name and postal address of the applicant and the legal description and approximate location of the parcel to be subdivided.
- (b) The applicant shall submit:
 - i. a subdivision plan prepared in conformity with the Land Title Act, as may be amended from time to time, together with three blue or white print paper copies thereof to be retained by the Town;
 - ii. where permissible under the Land Title Act, a written description by metes and bounds of the proposed subdivision together with three copies of a preliminary plan similar to that required under Section 8.1 (c) of this Bylaw may be submitted; and
 - iii. a certificate from the Collector stating that all taxes which have been assessed or estimated on the land proposed for subdivision have been paid and that the provisions of Section 7.6 or Section 7.7 of this Bylaw, whichever is applicable, have been fulfilled.



- (c) The applicant shall submit two additional paper copies of the subdivision plan, or an explanatory plan as required under Section 8.2 (b) of this Bylaw showing the following:
- i. the dimensions and full legal description of the parcel or parcels to be subdivided;
 - ii. the arrangement of the parcels and streets which would be created by the subdivision including the widths of the proposed streets and the approximate dimensions of the proposed parcels and any proposed alteration of lot lines or subdivision of any existing parcels;
 - iii. the proposed locations for driveways for each lot to be created;
 - iv. a parking plan, identifying the proposed locations for all on-street parking; existing property lines and streets to be eliminated by the proposed subdivision;
 - v. the relationship of the proposed subdivision to adjacent streets and the connections of proposed new streets thereto;
 - vi. existing buildings accurately located and identified;
 - vii. utility and other easements located and identified;
 - viii. existing sewers and water mains;
 - ix. plan, profiles, and location of proposed utilities;
 - x. watercourses and water frontages;
 - xi. the intended use of each parcel to be created by the subdivision;
 - xii. the relationship of lands proposed for subdivision to the remainder of the parcel or area where the application relates only to a part of a registered parcel or area; and
 - xiii. in the case of a parcel of land having a watercourse or water frontage which is not included in the Designated Flood Plan Area or Riparian Area, as determined by the Ministry of Environment, then a Restrictive Covenant, in a manner acceptable to the Approving Officer, shall be filed on title, under the Land Title Act, as may be amended from time to time, during subdivision registration. The Restrictive Covenant prohibits the cutting, damage or removal of any trees or vegetation, and no building structure addition or pool shall be constructed, reconstructed, moved, extended or located in the setback area as follows:
 - a. within a minimum of 30 metres of the natural boundary of a watercourse or lake; and
 - b. within a minimum of 15 metres of a wetland.
- (d) Compliance with Sections 8.2 (a), 8.2 (b) and 8.2 (c) of the Bylaw constitutes the tendering of the subdivision plan for examination and approval for the purposes of the Land Title Act.
- (e) No application shall be accepted unless deemed complete by the Town.
- (f) Within 60 days of the receipt by the Approving Officer of an application for tentative plan approval or the receipt of any additional information which may be required under the bylaw, the Approving Officer shall in writing:
- i. grant conditional or unconditional tentative plan approval, or
 - ii. refuse tentative plan approval stating explicitly the reason or reasons for refusal, or
 - iii. notify the applicant that Tentative Plan approval is being withheld pending modification of the plan as he may require.
- (g) Where Tentative Plan approval is withheld:
- i. the Approval Officer shall notify the applicant in writing of the requirements which must be met to obtain Tentative Approval; and



- ii. the applicant may, within 90 days, re-submit to the Approving Officer for Tentative Approval a revised plan of subdivision in the full number of copies and same detail required under Sections 8.2 (b) and 8.2 (c) of this Bylaw.
- (h) The Approving Officer shall, if satisfied that plans submitted under the Subsection 8.2 (g) of this Bylaw meet all the requirements of this Bylaw, grant Tentative Approval within fifteen (15) business days of the receipt of the revised plans.
- (i) In all cases of Tentative Approval, the Approving Officer shall explicitly state in writing all the requirements of Part 8 of this Bylaw to be met before submitting the application for Final Approval.
- (j) Tentative Approval shall:
 - i. be considered as certification by the Approving Officer that the proposed plan of subdivision is in accordance with this Bylaw and the Land Title Act, and that all requirements for Final Approval have been met other than the satisfactory completion of required works;
 - ii. not exempt the applicant from securing Final Approval prior to the deposit of the subdivision plan in the Land Title Office;
 - iii. be effective only for a period of 90 days; and
 - iv. be re-sought in accordance with Sections 8.2 (a), 8.2 (b), and 8.2 (c) of this Bylaw if an application for Final Approval is not submitted prior to the expiry of the above-mentioned 90 days.

8.3 Final Approval

- (a) The applicant may apply for Final Approval only on completion of all works and services required under Part 7 of this Bylaw or, at the sole discretion of the Town Administrator, following the execution of an agreement in accordance with Section 7.8 of this Bylaw.
- (b) The application for Final Approval shall take the form of the submission by the applicant of all material required by the Land Title Act together with written notification to the Approving Officer from the applicant of completion of all required works in accordance with Section 7.8 of this Bylaw.
- (c) Following notification from the Approving Officer and payment of Engineering Inspection Fees, the Town Engineer shall inspect the completed works and conduct any necessary examination to ensure that these works comply with the Town standards specified the Master Municipal Construction Documents (MMCD), as amended from time to time, and in the Schedule of this Bylaw.
- (d) Latecomer fees shall include interest rates in accordance with the Local Government Act, as may be amended from time to time.
- (e) Within 60 days of the receipt of an application for Final Approval, the Approving Officer shall in writing:
 - i. grant Final Approval, or
 - ii. notify the applicant that Final Approval is being withheld, stating explicitly the reason or reasons therefore.
- (f) Final Approval shall be withheld only where:
 - i. the complete works are not in accordance with the plans for which plan acceptance was granted.
 - ii. the required works have not been carried out according to the requirements of this Bylaw.
- (g) Final Approval shall be certified by:
 - i. the return to the applicant of the subdivision plan required under Section 8.2 (b) of this Bylaw, signed and dated by the Approving Officer in accordance with the provisions of the Land Title Act, as may be amended from time to time, or
 - ii. where no subdivision plan was required under Section 8.2 (b) by a certificate of Final Approval, signed and dated by the Approving Officer.



- (h) Final Approval either in the form of a plan or a certificate of Final Approval signed by the Approving Officer shall be used for registration purposes within 60 days from the date of approval after which time approval is revoked unless the Registrar grants an extension of time under the provisions of the Land Title Act, as may be amended from time to time.

9. PENALTIES AND PROCEDURAL PROVISIONS

- 9.1 The rejection of a plan by the Approving Officer, or the failure of the Approving Officer to act within the specified time limit, may be appealed in accordance with the provisions of the Land Title Act, as may be amended from time to time.
- 9.2 Every person who violates or who causes or allows to be violated any of the provisions of this Bylaw shall be guilty of an offence against this Bylaw; and each day on which such violation occurs or is caused or allowed to continue shall constitute a separate offence.
- 9.3 Every person guilty of an offence against this Bylaw including the Appendices thereto shall be liable on summary conviction to a fine not exceeding Ten Thousand (\$10,000) or imprisonment for a period of up to six months, or both, for each offence.
- 9.4 The Engineer and any employee of the Town acting under his direction may enter at all reasonable times upon the lands for which application to subdivide has been made to ascertain whether the provisions of this Bylaw are being obeyed.
- 9.5 No person shall obstruct or seek to obstruct the entrance into any place of any person acting pursuant to Section 9.4 of this Bylaw.

10. FORCE AND EFFECT

- 10.1 This Bylaw shall be cited for all purposes as the "Corporation of the Town of Lake Cowichan Subdivision, Works and Services Bylaw No 1082-2022."
- 10.2 The "Lake Cowichan Subdivision, Works and Services Bylaw No. 974-2016", together with all amendments thereto, is hereby released and declared to be of no effect.

READ A FIRST TIME on the 20th day of December, 2022.

READ A SECOND TIME on the 20th day of December, 2022.

READ A THIRD TIME on the _____ day of _____, 2023.

RECONSIDERED, FINALLY PASSED and ADOPTED by the Municipal Council of the Town of Lake Cowichan on the ___ day of ____, 2023.

Tim McGonigle
Mayor

Joseph A. Fernandez
Corporate Office



Schedule 'A'

1. **INCORPORATION OF MASTER MUNICIPAL CONSTRUCTION DOCUMENTS (MMCD)**

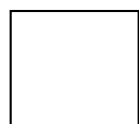
- 1.1 The Master Municipal Construction Documents (MMCD), Platinum Edition 2009 and the Design Guidelines Manual 2005, as may be amended from time to time, are hereby incorporated by reference into this bylaw, with exceptions as noted within this schedule.

2. **ROAD DESIGN**

- 2.1 The Road Plan and Cross Section Standards contained in Table 1 and Figures 1-4 are required design standards and should be used in lieu of those contained in Table 5.1 of the MMCD 2005 Design Guideline Manual, as may be amended from time to time.

Road Classification	Right-of-Way Width (meters)	Pavement Width Curb-to-Curb (meters)	Curb Type	No. of sidewalks	No. of Bike Lanes	Parking
Collector	20	13.2	Barrier	2	2	One side
Local Single Detached	18	8.5	Rollover	2	n/a	Both sides
Local Single Detached Cul de sac	15 with amenities	8.0	Rollover and barrier	2	n/a	Both sides, except as may be determined through alternative design with amenities
Local Single Detached with Opposite Side Developed OR Opposite Side with No Development Opportunity	20	8.5; 5.5 from centre line adjacent to new development	Rollover	New sidewalk and curb adjacent to new development	n/a	Both sides, retain 2 travel lanes
Local Multi-Unit / Commercial	20	12	Barrier	2	2	Both sides

- 2.2 Except for a maximum grade of 15% for single family driveways and multifamily driveways, all the provisions of the most current MMCD 2005 Design Guideline Manual, as may be amended from time to time, referencing cold climate conditions are applicable to the Town.
- 2.3 The minimum width of a sidewalk on a local street is 1.8 meters.
- 2.4 The minimum width of a sidewalk on a collector street is 2.2 meters.
- 2.5 The Approving Officer may approve alternative road cross section standards in exchange for amenities.
- 2.6 The standards for the Cul de Sac and Small Lot with Amenities road, shown in Figure 3, may be granted by the Approving Officer in exchange for a satisfactory level of amenities.



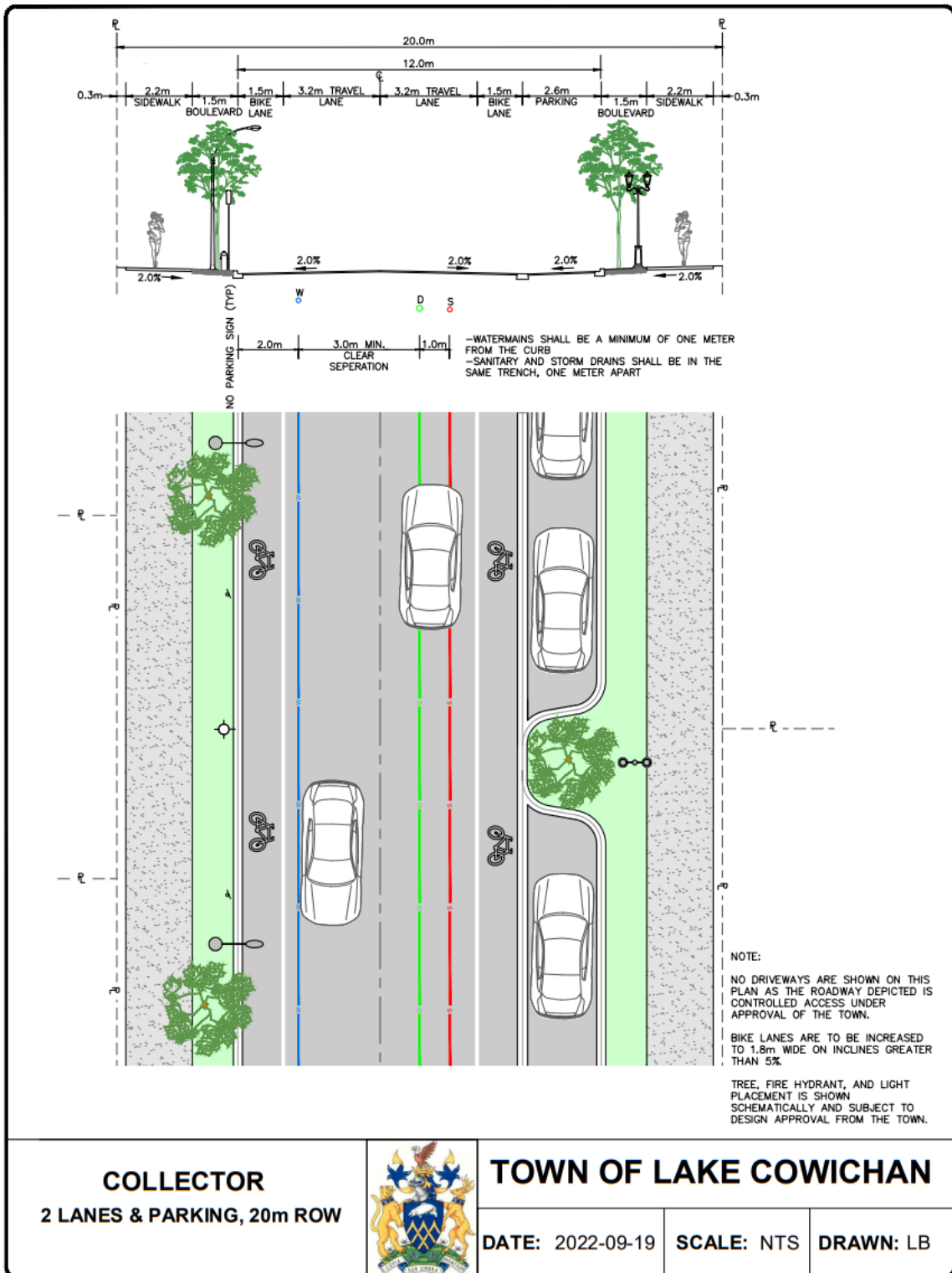


Figure 1 Collector



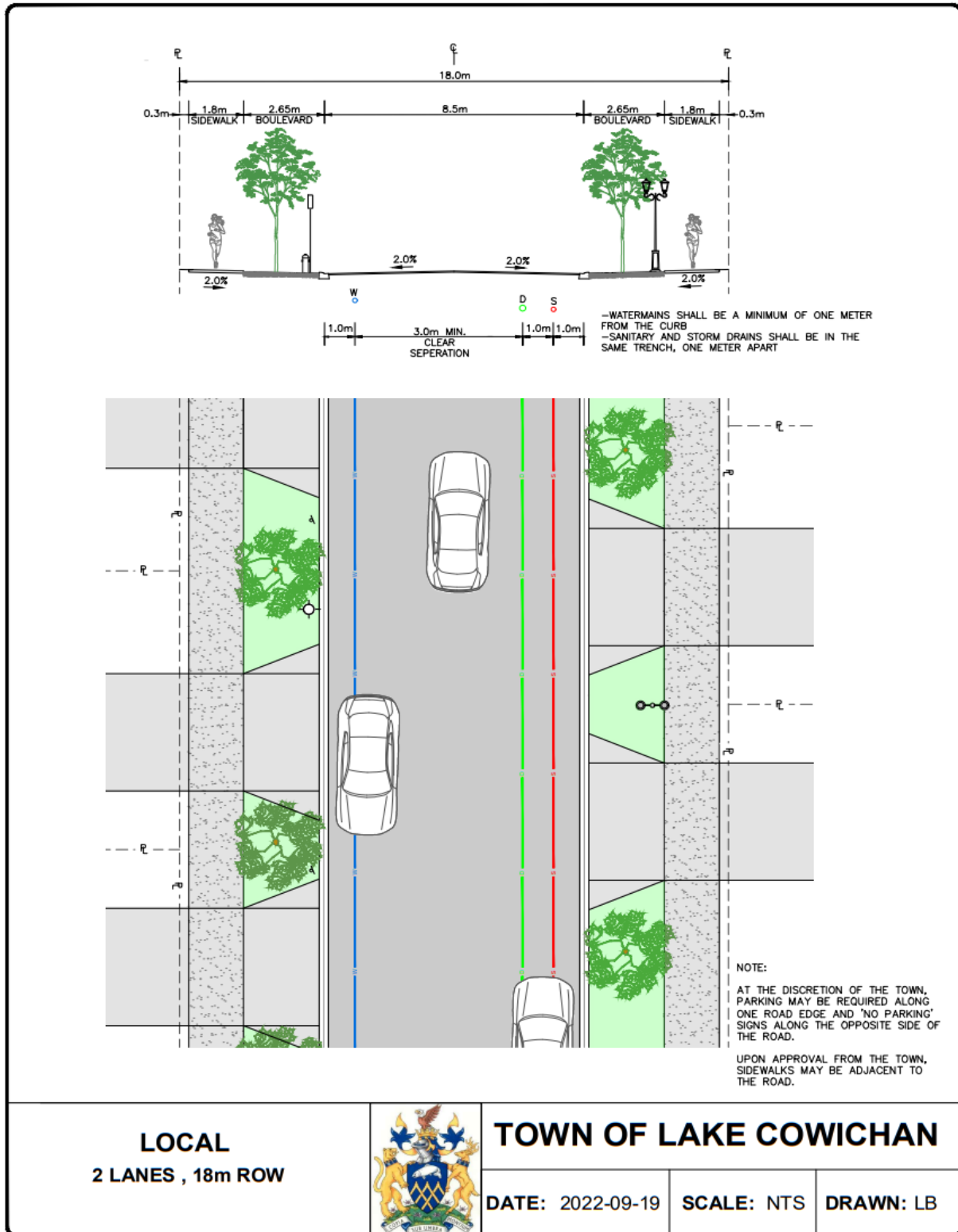


Figure 2 Local



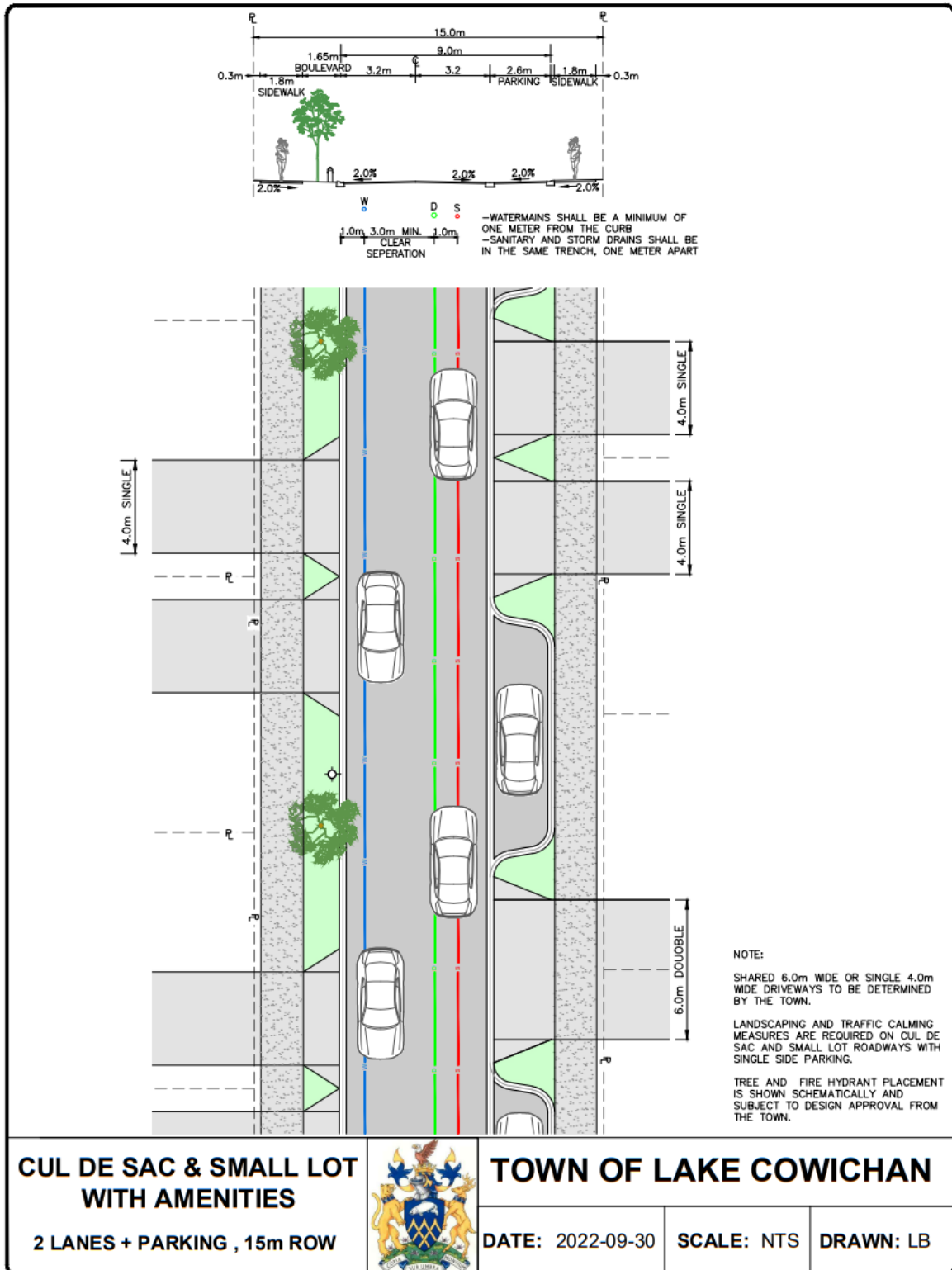


Figure 3 Cul de Sac and Small Lot with Amenities



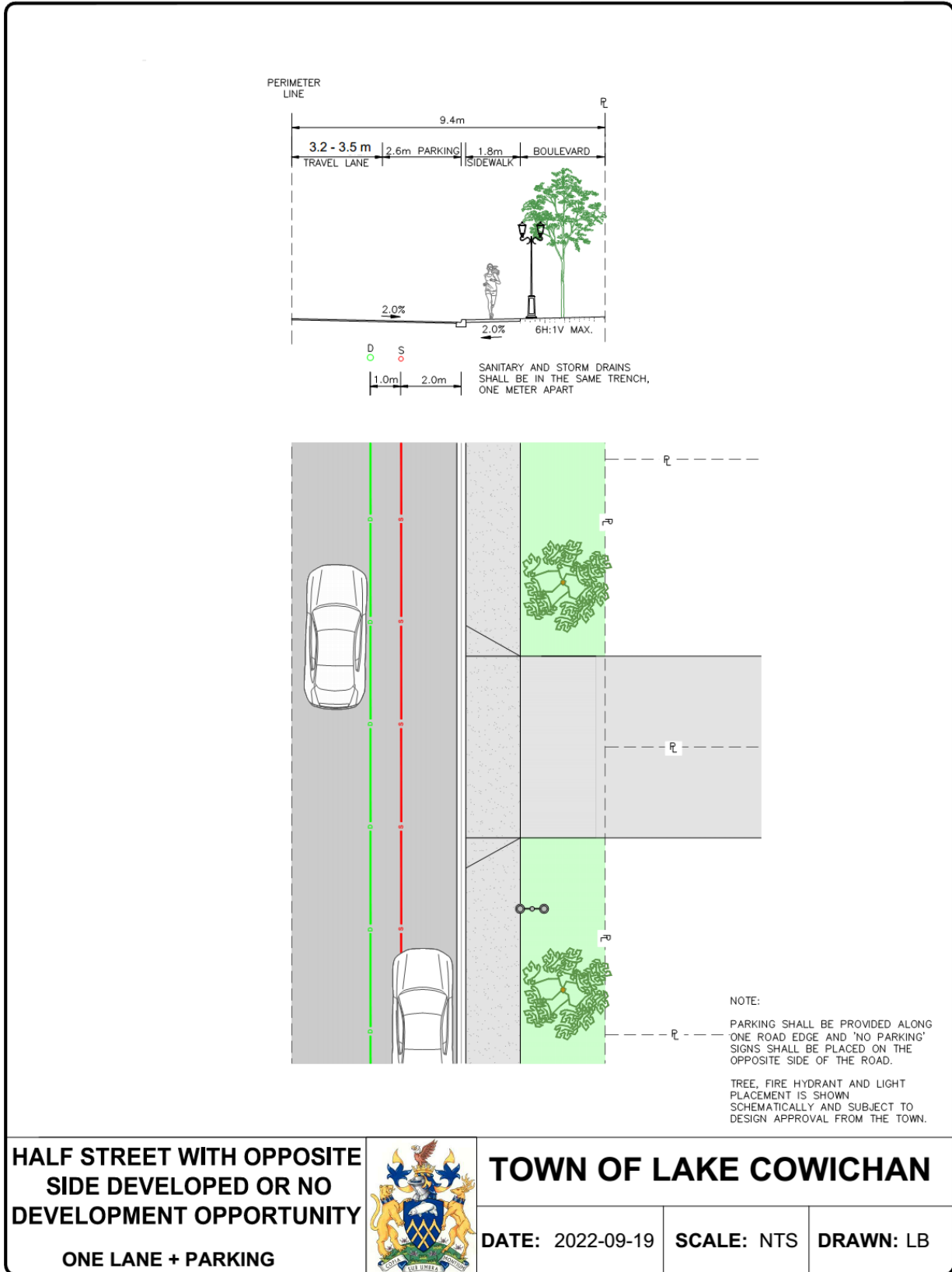
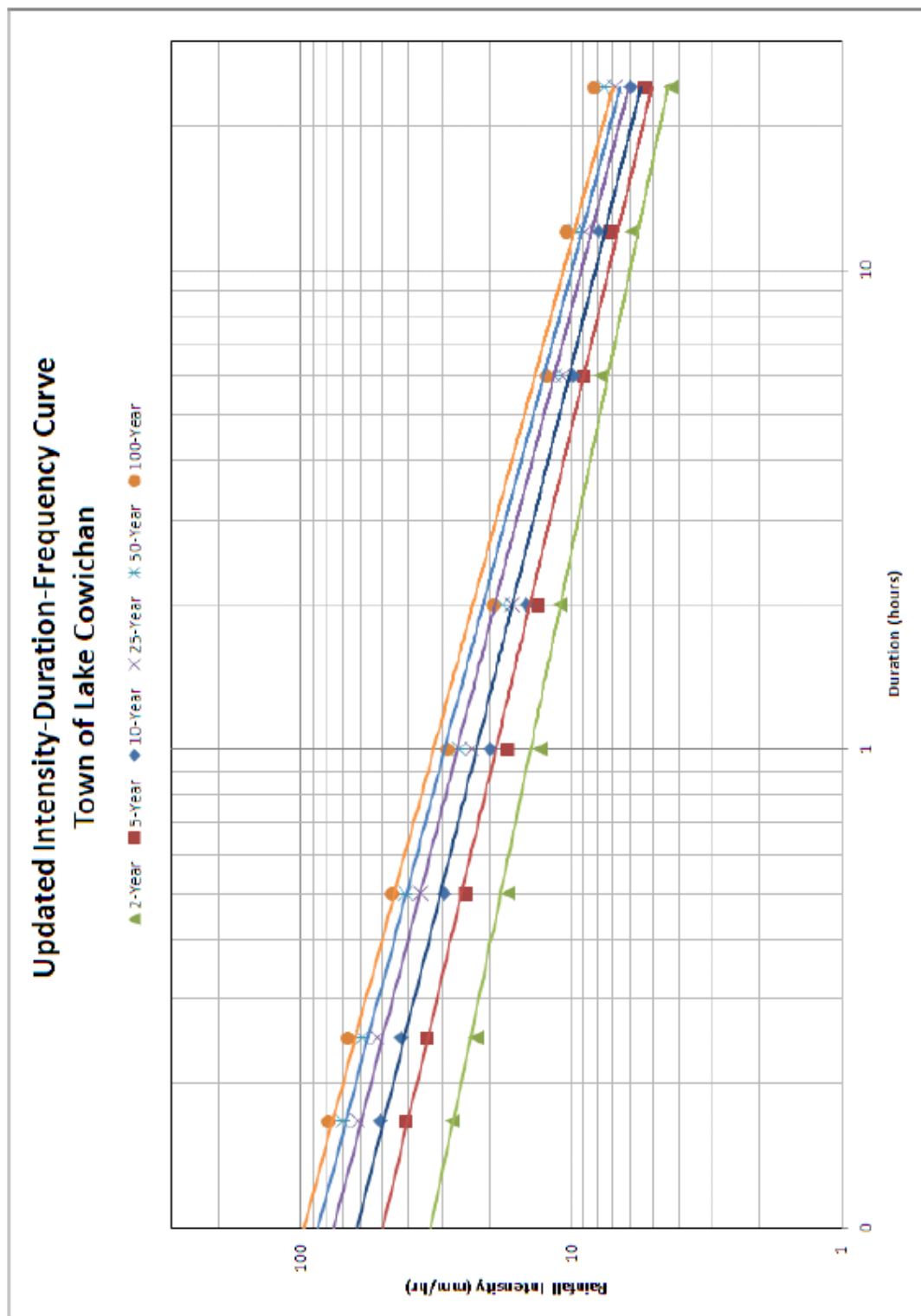


Figure 4 Half Street



3. INTEGRATED RAINWATER MANAGEMENT

- 3.1 Notwithstanding the provisions of the MMCD Platinum Edition 2009, Environmental Protection section, or the most current edition, the following rainwater management standards shall apply:
 - (a) site grading shall be in accordance with the Town of Lake Cowichan Integrated Rainwater Management Plan (IRMP) prepared by Kerr Wood Leidal (KWL) in 2014;
 - (b) stormwater pipe inspection and testing shall be in accordance with the most current MMCD standards;
 - (c) the Intensity-Duration-Frequency (IDF) curve specific to the Town is Figure 4.2. of the town of Lake Cowichan IRMP 2014 report by KWL;



Town of Lake Cowichan
Integrated Rainwater Management Plan
Figure 4-2: Updated IDF Curve



Table 2 Intensity Duration Frequency Curve

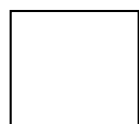


- (d) a minimum 63 mm rainwater capture (72% of 2-year, 24 hr. event Lake Cowichan Climate Station), is required, including requirements for on-lot Best Management Practices and minimum of 30 cm topsoil depths; and
 - (e) rainwater detention is required for a two-year storm event to pre-development levels, except in those areas draining directly to Cowichan Lake or the Cowichan River;
 - (f) Green Roads source controls are required for road rainwater runoff that meet the same requirements as those for development as prescribed in subsections 3.1 (a), 3.1 (b), 3.1 (e) and 3.1 (f); and
 - (g) Open ditches and swales for rainwater runoff shall be permissible only in selected conditions approved by Town staff.
- 3.2 To mitigate the hydrologic impacts of development the following rainwater management measures may be implemented to achieve the standards outlined in Subsection 3.1:
- (a) Low Impact Development (LID) techniques such as reduced road widths, reduced building footprints, reduced parking standards, limiting surface parking, pervious parking surfaces, and preserving naturally significant features;
 - (b) Source Controls such as absorbent landscaping, surface infiltration facilities, bio-retention facilities, sub-surface infiltration facilities, green roofs, rainwater harvesting, and re-use;
 - (c) rainwater management for streets may include vegetative surface facilities such as grassy swales, rain gardens, and vegetated infiltration basins,
 - (d) Water Quality Treatment Best Management Practices (BMPs) such as biofilters, urban forests and leave strips, infiltration systems, constructed wetlands, and wet settling ponds. Oil and grit separators are suitable for spill control and removal of floatable petroleum-based contaminants as well as coarse grit and sediment from small areas, such as gas stations, automotive service areas and parking lots;
 - (e) Construction Best Practices for any site or subdivision work must include measures to prevent the release of silt, sediment, sediment-laden water, raw concrete, concrete leachate, or any other deleterious substance into any ditch, watercourse, stream, or storm sewer system. The work area should be isolated from flowing water as much as possible and diversions around the site should be provided for overland flow paths. Ensuring that all equipment used on-site is in good working order, and having a ready spill containment kit and staff trained in its use, are also critical measures; and
 - (f) Rainwater Detention Systems to limit the post-development runoff to the pre-development rate, volume, and approximate shape for the hydrograph for the 6-month/24 hour and 2-year/24-hour storm events and to maintain, closely as possible, the natural pre-development flow pattern in the receiving watercourse.
- 3.3 Rainwater Management Criteria (performance standards) shall apply as follows (from Table 7-1 of the Lake Cowichan IRMP 2014):
- (a) Flood Protection
 - i. Minor Drainage System shall provide for the safe conveyance of the 10-year return period (for < 900 mm diameter pipes) and 25-year return period (for > 900 mm diameter pipes) storm flows.
 - ii. Major Drainage System shall provide for the safe conveyance of the 100-year return period storm flows.
 - (b) Environmental Protection of Watercourses
 - i. Volume Reduction
 - a. The 90% average annual runoff volume shall be captured and infiltrated to ground. Runoff volume may be estimated by the 6 month 24-hour return period event) 72% of the 2-year, 24-hour



return period total rainfall depth (63 mm based on lake Cowichan Climate Station Data).

- ii. Water Quality
 - a. Source Controls or approved alternatives shall be sized to treat the 90% average annual runoff volume. (80% Total Suspended Solids removal based on 50 µm/L particulate size.)
 - b. Limit construction discharge water quality to the lesser of turbidity of 25 NTU or total suspended solids of 25 mg/L at all times expected in the 24-hour period following significant rainfall events (≥ 25 mm/day) at which time the turbidity can be up to 100 NTU.
- iii. Rate Control
 - a. Detain 6-month and 2-year, 24-hour post-development flows to pre-development levels (natural forested conditions) for all new or redevelopment.
- iv. Riparian
 - a. Establish riparian setbacks to comply with Riparian Area Regulation (RAR) requirements.



4. BOULEVARD TREE STANDARDS

- 4.1 Trees shall be a minimum 7 cm caliper, measured 15 cm from ground level or as approved by the Superintendent of Public Works.
- 4.2 Trees shall be inspected by the Superintendent of Public Works prior to planting for health, size, and species appropriateness for the site, preferably at the nursery.
- 4.3 Trees must be provided in the road allowance at a minimum density of one per 15 metres of frontage.

Table 3 Recommended Tree Species for Boulevard Planting

Botanical Name	Common Name	Mature Height (ft.)	Flower	Fall Colour	Comments
Acer ginnala	Amur Maple	35		Yellow	
Carpinus betulus "Fastigiata"	European Hornbeam	35		Yellow	
Cercis Canadensis	Eastern Redbud	35		Yellow	Spring blossom
Cornus nutallii "E.W.W."	Dogwood "E.W. Wonder"	25	White	Multi-colour	Showy flowers
Cornus kousa	Japanese Dogwood	25	White	Multi-colour	Showy flowers
Prunuspissardii "Nigra"	Flowering Plum	25	Pink	Purple	Deep burgundy leaves
Prunus yedoensis "Akebona"	Flowering Cherry	20	Pink	Yellow	Spreading branch habit
Prunus surrulata "Kwanzan"	Flowering Cherry	25	Pink	Red	Spring blossom
Prunus serrulata "Shirofugen"	Flowering Cherry	25	Pink	Red	Spring blossom
Prunus subirthella "Amanogawa"	Flowering Cherry	25	Pink	Yellow	Fall blossom
Pyrus calleryana "Chanticleer"	Ornamental Pear	25	White	Red	Profuse blossoms

