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TUP-01-13/TUP-02-13/TUP-03-13
VAR-02-13/VAR-03-13/VAR-04-13
TIMBERWEST FOREST CORP. INC.

**REPORT TO JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, MARCH 19, 2013**

SUBJECT **TEMPORARY USE PERMIT & DEVELOPMENT VARIANCE PERMIT APPLICATIONS FOR:**

- **BLOCK 1410, MALAHAT DISTRICT, PID: 008-024-103;**
- **LOT A, BLOCK 1264 AND DISTRICT LOT 124, MALAHAT DISTRICT, PLAN 21358, PID: 003-418-685**

ISSUE

Applications for temporary use permits and height variance for the installation of three 80 m meteorological towers in the Resource Land (RL) zone.

BACKGROUND

TimberWest Forest Corporation is applying for temporary use permits to construct three meteorological towers to explore the potential for power generation with wind energy. The three towers are to be located on two properties located in the Rural Resource Lands (Appendix 1). The first property is 3,526.4 ha in area and is located north of Wye Lake extending northeast to Floodwater Creek. The second property is 913.4 ha in area and is located directly north of Bear Creek Reservoir.

The company is proposing to collect detailed data on wind speed from the meteorological towers. If the wind speeds meet the anticipated threshold requirements, the company proposes the towers be left up longer to support a business case for developing a wind farm.

The proposed towers will be 80 m in height and have guy-lines extending out approximately 70 m to anchor the structures (Appendix 2). The towers will be painted red and white and will meet requirements prescribed by NAV Canada and Transport Canada.

The subject lands are designated as Renewable Resource Lands in the Regional Growth Strategy and Resource Lands in the Rural Resource Lands Official Community Plan (OCP). The subject properties are within the RL zone, outlined in Section 4.1 of the Rural Resource Lands Land Use Bylaw No. 3602, which does not specifically permit meteorological towers.

The RL zone specifies the maximum height of all non-residential buildings and structures shall be 6 m. Section 2.8 of Bylaw No. 3602 outlines height exemptions, including: "...*public communication towers, antennas or masts for the reception of communication signals; public weather stations....*". As the proposed meteorological towers are not publically owned, the applicant must abide by the 6 m height restriction of the RL zone. Therefore a development variance permit to change the height requirement from 6 m to 80 m for the purpose of constructing the three temporary towers is required.

ALTERNATIVES

1. Proceed with referrals and public notification of the intent to issue a temporary use permit and proceed with the development variance permit.
2. Not proceed with referrals or notification or variance.
3. Refer the application back to staff for more information.

LEGISLATIVE IMPLICATIONS

Section 920.2 of the *Local Government Act (LGA)* enables a local government to issue temporary use permits within areas designated by the OCP. Temporary use permits may be issued throughout the Rural Resource Lands OCP area as outlined in Bylaw No. 3591 and in accordance with Section 921 of the *LGA*.

If a local government proposes to pass a resolution allowing a temporary use permit or a development variance permit to be issued, it must give notice in accordance with Sections 892 (4) to (7) and 921 of the *LGA*. Sections 921(4) and 922(4), require notice to be given to each resident/tenant within a given

distance as specified by bylaw. CRD Bylaw No. 3110, Development Procedures Bylaw, states that a notice of intent must be mailed to adjacent property owners within a distance of not more than 500 m.

CRD Bylaw No. 3110, also provides for the Board to refer an application to an agency or organization for their comment. The CRD Board determines which bodies are consulted in accordance with the *LGA*.

Section 3.6 of the Rural Resource Lands OCP, Bylaw No. 3591, outlines Commercial and Industrial Temporary Use Permit policies. Temporary use permits can be issued for a period of three years with the ability of renewal for an additional three years in accordance with Section 921 of the *LGA*. The permit can allow any commercial or industrial use and the construction of buildings or structures related to the enterprise. The permit can also specify conditions under which the use may be carried on. As the area is designated a Development Approval Information Area in Part 4 of the Rural Resource Lands OCP, the local government can also require additional information from the applicant to support the temporary use permit.

The Land Use Bylaw for the Rural Resource Lands, Bylaw No. 3602, specifies the height requirements for structures in the RL zone. To vary this bylaw requirement, a development variance permit is necessary. Should the variance be approved, a building permit will be required for the construction of the towers.

PUBLIC CONSULTATION & APPLICATION PROCESS IMPLICATIONS

The temporary use application will be heard by the Land Use Committee in March with recommendation for the CRD Board to proceed with public notification and referral to selected ministries, agencies and First Nations. Due to the large parcel size in the area, staff is proposing to directly notify landowners within a five kilometer radius of the properties. Any responses received from the public will be presented at the March 19, 2013 Land Use Committee meeting.

The CRD Board will consider the application at their meeting in April, following which the referrals will be sent out for the standard 20 working-day comment period. To ensure timely processing of the permit application, referral comments from agencies will be considered by the CRD Board at their meeting of May 9, 2013.

GROWTH MANAGEMENT IMPLICATIONS

In the evaluation of the temporary use permit, consideration must be given to the Capital Regional District's Regional Growth Strategy and Rural Resource Lands OCP. The proposal to construct meteorological towers on two separate parcels in the Rural Resource Lands is not inconsistent with the Regional Growth Strategy which supports the long-term use of the lands as renewable resource working landscapes and supports finding ways to expand and diversify the economy of resource dependent areas through related value-added enterprise.

The primary goal for the Rural Resource Lands OCP is to protect natural resources in the context of resource and economic uses, maintaining the rural atmosphere, and protecting its environment. The OCP policies encourage resource extraction, tourism and recreational uses in this area and also supports opportunities for alternative energy facilities to address greenhouse gas reduction targets. The TimberWest proposal to evaluate the viability of generating wind power is a sustainable energy alternative.

LAND USE IMPLICATIONS

TimberWest, through Couverdon Real Estate, is pursuing alternative economic development opportunities on their lands. Their efforts to determine the feasibility of wind power generation on the sites, if successful, could generate a unique business opportunity in the Juan de Fuca Electoral Area. Should the proposal to generate wind power be successful and the property owner wish to pursue a longer term business opportunity, the subject lands would require rezoning to support the use.

Notwithstanding the large variance request from 6 m to 80 m, the proposed towers are not anticipated to negatively impact any of the surrounding properties or views as the locations are not near any residential or tourist development sites. The towers will be installed under the supervision of Professional Engineers and CRD Building Inspection to insure they are safe for the intended use.

The towers are proposed in areas that have been previously logged and access to the sites will be provided by an existing network of private gated logging roads on which public access is restricted.

No blasting or road construction is required. Minimal clearing of vegetation is necessary at the base of the towers and for guy-line anchors each occupying a very small area (approximately 4 sq.m.). The guy-lines will be anchored to rock bolts grouted into drilled holes or to soil anchors. The proposed development will not impact any Development Permit Areas as identified in Part 5 of Bylaw No. 3591.

The proposed development sites are within traditional First Nations' territory and may have significant archaeological features and/or historical significance. Staff recommends referring the applications to local First Nations and the Archaeology Branch of the Ministry of Forests, Lands and Natural Resource Operations for comment.

Staff recommends Alternative 1, referral and public notification of the temporary use permit and approval of the variance to relax the height requirement from 6 m to 80 m for the purpose of installing three meteorological towers.

CONCLUSION

The application for three temporary use permits in the Rural Resource Lands complies with OCP policies for the area and is generally in keeping with the rural resource policies of the Regional Growth Strategy. Construction of the 80 m towers will not require excavation or significant alteration of land. The locations are relatively remote from residential or tourist areas and therefore little negative impact is anticipated. Should the applicant pursue wind generation in the future, the project could become a renewable energy alternative contributing to greenhouse gas reduction targets and an economic stimulus to the area. Staff recommend proceeding with referrals and public notification of the temporary use permit applications and approval of the variance to relax the height requirement from 6 m to 80 m for the purpose of installing three meteorological towers. Staff will report back to the CRD Board after the referral period for a decision on the temporary use permit.

RECOMMENDATIONS

That the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

1. That Development Variance Permits VAR-02-13/VAR-03-13/VAR-04-13 for Block 1410, Malahat District and Lot A, Block 1264 and District Lot 124, Malahat District, Plan 21358, to vary the Rural Resource Lands Land Use Bylaw, Bylaw No. 3602 Section 4.1.2, by increasing the maximum height from 6 m to 80 m for the purpose of allowing the construction of three metrological towers, be approved.
2. That public notification and referrals to relevant CRD departments and to the following agencies proceed for the Temporary Use Permits TUP-01-13/TUP-02-13/TUP-03-13 for the purpose of constructing three 80 m meteorological towers on Block 1410, Malahat District and Lot A, Block 1264 and District Lot 124, Malahat District, Plan 21358:

Archaeology Branch
BC Hydro
Cowichan Tribes
Cowichan Valley Regional District
District of Sooke
Ministry of Environment

Ministry of Transportation and Infrastructure
Pacheedaht First Nation
T'Sou-ke First Nation
Landowners within 5 km radius of subject properties

****ORIGINAL SIGNED****

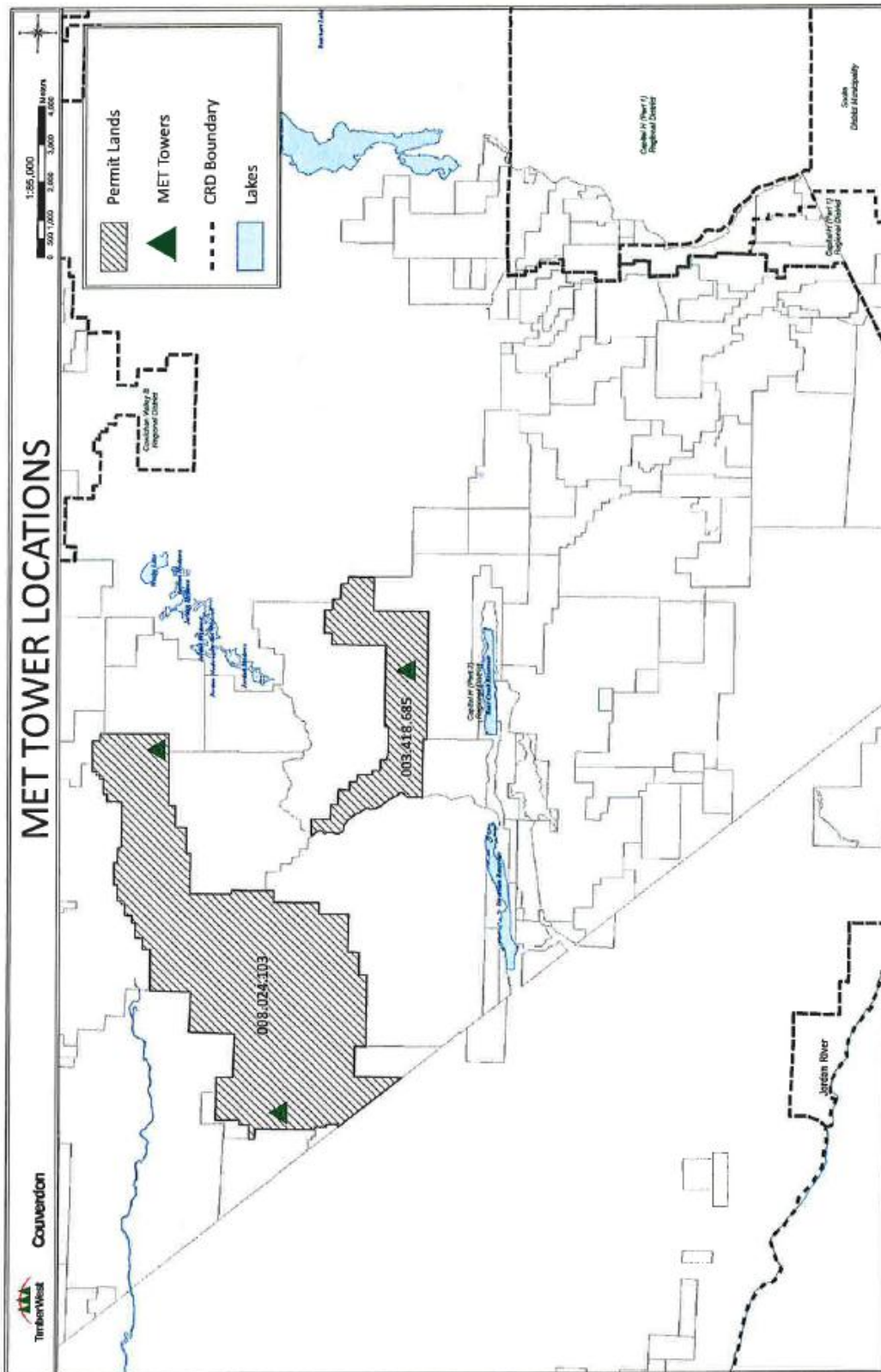
June Klassen, MCIP RPP
Manager, Local Area Planning

Marg Misek-Evans, MCIP RPP
Acting General Manager, Planning & Protective Services

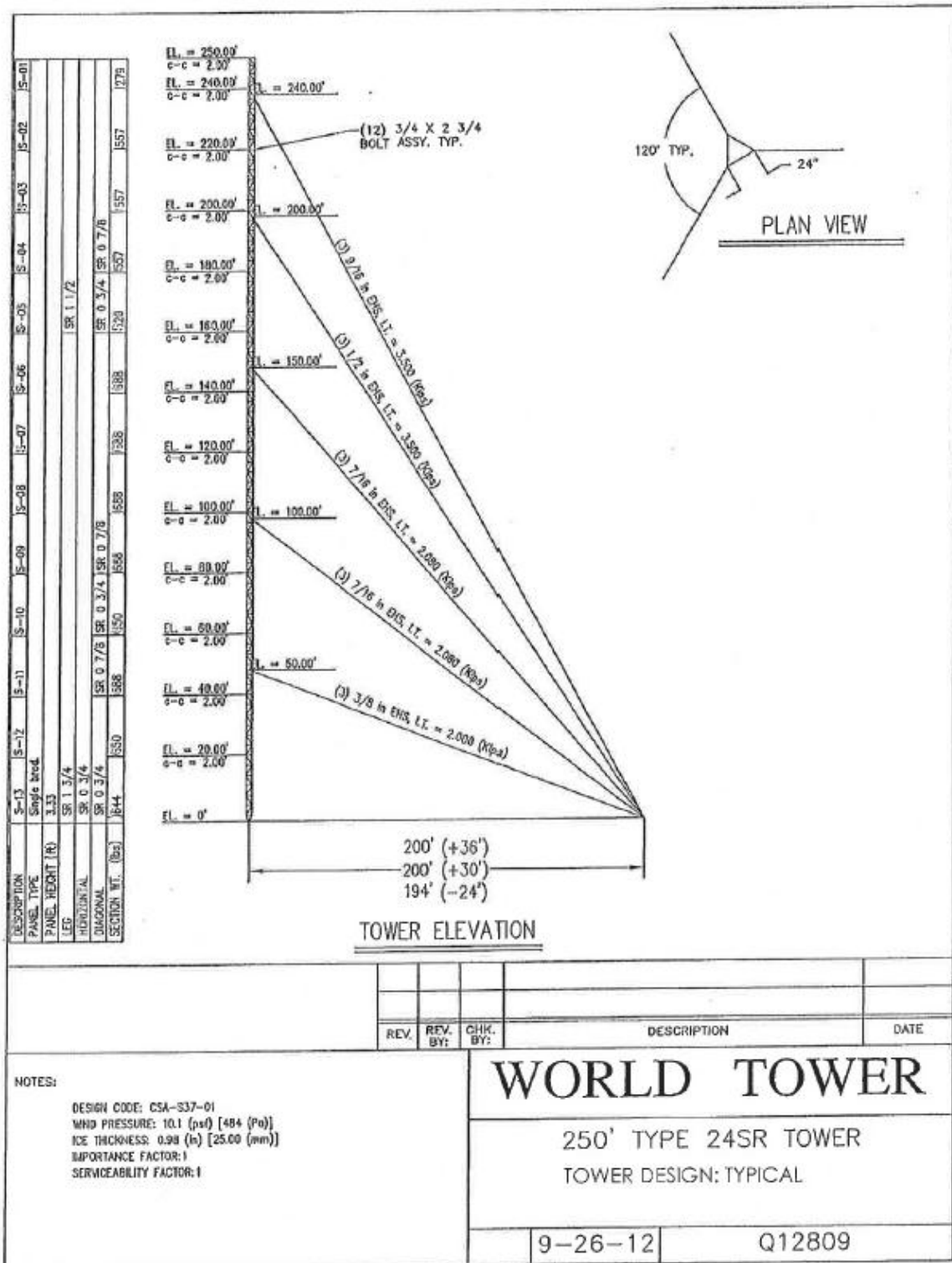
Robert Lapham, MCIP RPP
Chief Administrative Officer
Concurrence

Appendices: 1. Location Map, 2. Tower Diagrams

Appendix 1 – Location Map



Appendix 2 – Tower Diagrams





Tower Base