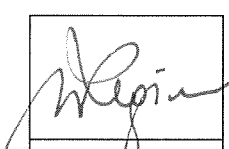
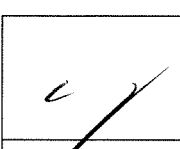
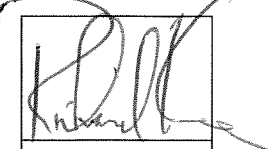




**TOWN OF COMOX
PLANNING REPORT**

TO:	RICHARD KANIGAN, CHIEF ADMINISTRATIVE OFFICER
FROM:	MARVIN KAMENZ, MUNICIPAL PLANNER REGINA BOZEROCKA, PLANNER I
SUBJECT:	PLANNING REPORT PR 16-8 BEAUFORT AVENUE ROAD ALLOWANCE CLOSURE BYLAW NO. 1846
DATE:	RCM JULY 20, 2016 FIRST, SECOND AND THIRD READING REPORT

 Submitted by	 Concurrence	 Approval
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Planner's recommendation:

- 1) That Comox, Beaufort Avenue Road Allowance Closure Bylaw No. 1846 be given First, Second and Third Reading (**Attachment 1**);
- 2) That a notice be given of Council's intention for road closure and disposition in relation to Bylaw 1846 in accordance with Section 94 of the *Community Charter*, and
- 3) That a notice of Council's intention for road closure and disposition in relation to Bylaw 1846 be given to BC Hydro, Fortis BC, Shaw Cable and Telus, in accordance with s. 40(4) of the *Community Charter*.

Proposal:

The proposal is to close approximately 31.0¹ square metres of the Beaufort Avenue to all traffic and enter into a 5 year licence facilitating construction of an open deck at Toscanos Trattoria. The proposed annual licence is \$8.00 per square foot per year. **Attachment 2** includes public submissions received to date.

Processing steps:

The key processing steps are listed in **Attachment 3**. Prior to adopting a road closure bylaw and disposing of land or improvements, the Council must give notice of its intention in accordance with Section 94 of the *Community Charter* and provide an opportunity for persons who consider they are affected by the bylaw to make representations to Council.

¹ Approximately 333.0 square feet.

BEAUFORT AVENUE ROAD ALLOWANCE CLOSURE

JULY 20, 2016

Section 40(4) of the *Community Charter* states that before adopting a road closure bylaw the council must deliver notice of its intention to the operators of utilities whose transmission or distribution facilities or works the council considers will be affected by the closure. To staff's knowledge no utilities are located or proposed within the subject road dedication.

MK/RB

Attachments: 3

cc. Grant Skelly

TOWN OF COMOX

BYLAW NO. 1846

A BYLAW TO CLOSE A PORTION OF BEAUFORT AVENUE TO ALL TRAFFIC

WHEREAS, pursuant to Section 40 of the *Community Charter*, Council may, by bylaw, close a portion of a highway to all traffic, if prior to adopting the bylaw, Council publishes notice of its intention in a newspaper and provides an opportunity for persons who consider they are affected by the bylaw to make representations to Council;

AND WHEREAS the Council of the Town of Comox deems it expedient to close to all traffic of that portion of highway comprising approximately 31.0 square metres of Beaufort Avenue dedicated as highway by Plan 104, Section 56, Comox District, which is shown outlined in bold black on the reference plan prepared by Zaharko Land Surveying Inc. B.C.L.S. on the 19 day of July, 2016, a reduced copy of which is attached hereto (the "Road Closure Plan");

AND WHEREAS, pursuant to Section 40(3)(a) of the *Community Charter* notice of Council's intention to close that portion of highway to all traffic was published in a newspaper and posted in the public notice posting place, and WHEREAS, pursuant to Section 40(3) (b) of the *Community Charter* Council has provided an opportunity for persons who consider they are affected by the closure to make representations to Council;

AND WHEREAS the Council does not consider that the closure of the Closed Road will affect the transmission or distribution facilities or works of utility operators;

NOW THEREFORE the Council of the Town of Comox, in open meeting assembled, enacts as follows:

1. Title

This bylaw may be cited for all purposes as the "Comox, Beaufort Avenue Road Allowance Closure Bylaw No. 1846".

2. Road Closure

- (1) Attached to this Bylaw as Schedule “A” and forming part of this Bylaw is a reduced copy of the reference plan of highway closure (the “Road Closure Plan”).

- (2) The Town hereby authorizes the closure to all traffic the approximately 31.0 square metre portion of highway (which was dedicated as highway at the Victoria Land Title Office by Plan 104, Section 56, Comox District), labeled “Closed Road” on the Road Closure Plan (the “Closed Road”).

3. Adoption

- (1) Read A First, Second And Third time this 20th day of July, 2016

- (2) Notice of this Bylaw has been given in accordance with Section 40(3)(a) of the *Community Charter* on these _____th and _____th days of _____, 2016

- (3) Adopted this _____th day of _____, 2016

Paul Ives,
Mayor

Richard Kanigan,
Corporate Officer

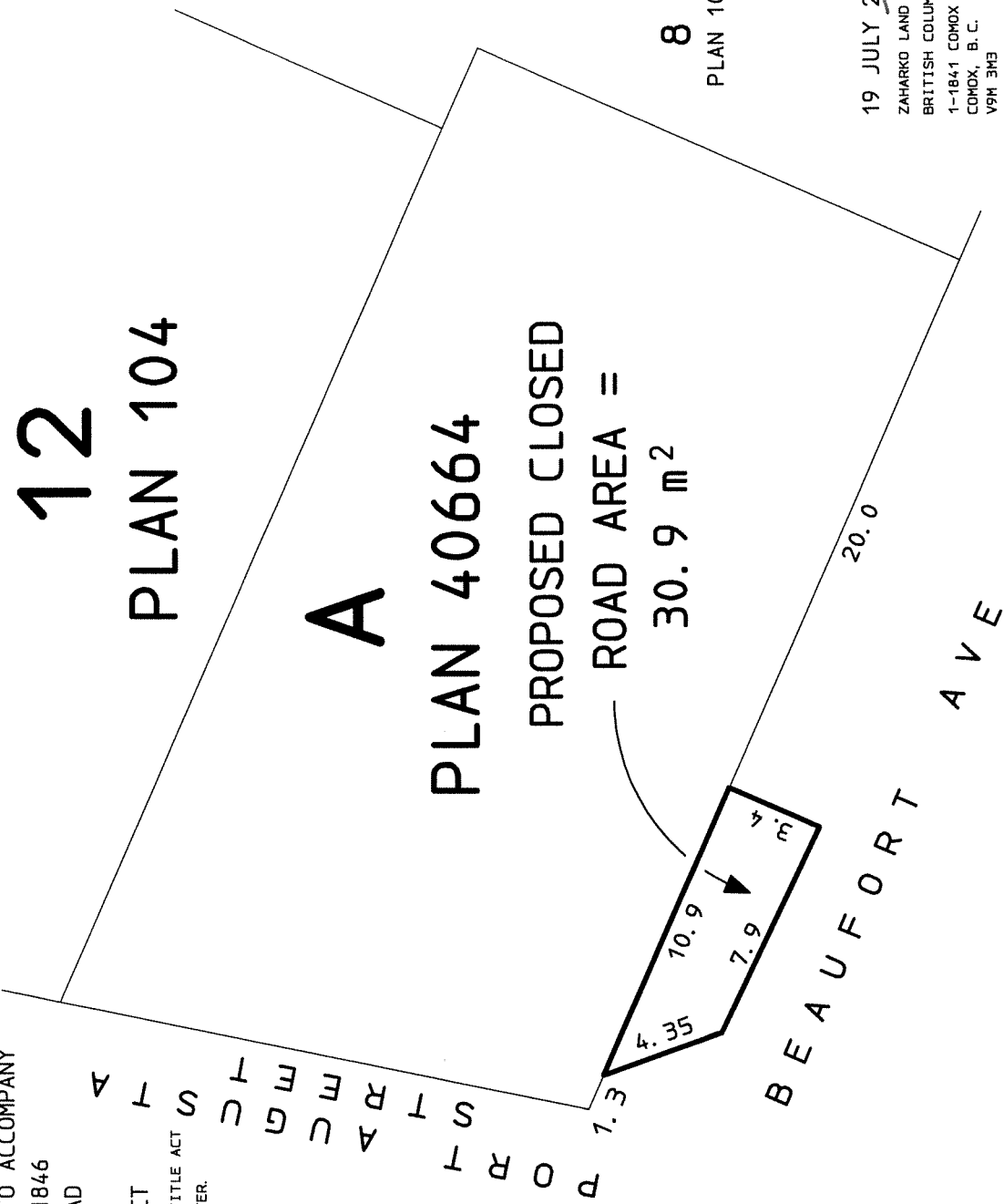
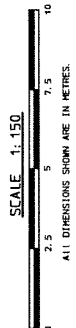
I HEREBY CERTIFY that this is a true copy of “Comox, Beaufort Avenue Road Allowance Closure Bylaw No. 1846”

Shelly Russwurm,
Deputy Corporate Administrator

**BYLAW NO. 1846
SCHEDULE “A”**

Road Closure Plan

PROPOSED REFERENCE PLAN TO ACCOMPANY
TOWN OF COMOX BYLAW NO. 1846
TO CLOSE A PORTION OF ROAD
DEDICATED BY PLAN 104
SECTION 56, COMOX DISTRICT
PURSUANT TO SECTION 120 OF THE LAND TITLE ACT
AND SECTION 40 OF THE COMMUNITY CHARTER.
BCGS 92F.076



8
PLAN 104

19 JULY 2018 2016
ZAHARCO LAND SURVEYING INC.
BRITISH COLUMBIA LAND SURVEYORS
1-1841 COMOX AVENUE
COMOX, B. C.
V9M 3M3
T: 250.339.9711

FILE: 1917-2

DISTANCES, DIMENSIONS, AND AREAS SUBJECT TO FIELD SURVEY.

LATE ITEM

PR 16-8

BEAUFORT AVENUE ROAD ALLOWANCE CLOSURE

JULY 20, 2016

**ATTACHMENT 2
PUBLIC SUBMISSIONS**

RECEIVED

JUN 28 2016

TOWN OF COMOX

Martine's Bistro
1754 Beaufort Avenue
Comox, BC V9M 1R6

o+ RCM Agenda
copies - Council
- RLC
- MK
- AF

June 27, 2016

Mayor and Council
Town of Comox
1809 Beaufort Avenue
Comox BC V9M 1R9

LOG: 16-240	REFER:	AGENDA: RCM
FILE: 0400-03	ACTION: MR	Jul 20

RE: Outdoor Patio Restaurant Seating and Food Kiosks

I write to you as the owner of "Martine's Bistro", a business that has now been operating in Comox for more than 13 years. As the founder, I have worked in the business through good times and bad times, and have always worked within the Town's parking and seating Bylaws. I have never opposed variance applications from my competitors to reduce or modify their requirements on their own properties. I have no problem with competition. My concern is that we compete on a level playing field.

I appreciate the efforts that the town is making to foster a tourist friendly, walkable destination. I believe that the restaurant businesses available to the public enhance the overall ambiance, and contribute to make Comox a great place to live and to visit.

The reason that I am writing to you, however, is to bring to your attention the unfairness of the approach that you are taking in allowing and encouraging sidewalk seating, food kiosks in Marina Park, and seating on the road itself. To be clear, my objection is not that these activities are allowed, it is that they are being allowed without significant payment by the operations to the Town, and thereby reduce the per seat overhead of these businesses.

When Martine's was established, we were required to acquire an additional adjacent parking lot which, in addition to the capital cost, has an annual tax bill of approximately \$4,000.00. Other businesses have paid into the Town's parking fund in lieu of acquiring parking of their own. The property taxes on Martine's restaurant building are another \$8,000 per year. For the land that we own and use in our businesses, we have capital costs, maintenance costs, repairs, taxes – and yet the Town allows the use of their assets for nominal payment, if any.

The food kiosks in Marina Park present the same issue.

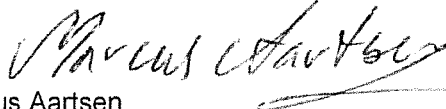
Perhaps prospective users should be allowed to bid on the right to location in the Park. The process should be "open and transparent", to use the popular expression.

In any event, I understand that the Town intends that the sidewalk seating will not be for the exclusive use of the adjacent business. Will signs inviting the public to use any seating in those areas be posted, inviting the public to bring their own refreshment's? I don't think so. And, if alcohol is to be served on these patios they will have to be for the exclusive use of the restaurant in order to comply with liquor regulations.

I believe that what amounts to the Town subsidizing some businesses in direct competition with those of us that are paying all of the costs, is grossly unfair.

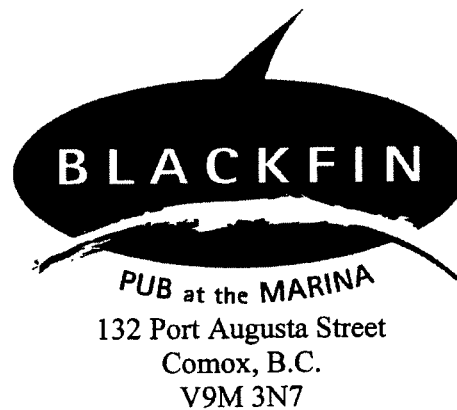
I would be pleased to discuss this matter with your staff in the pursuit of finding an equitable solution that addresses this concern.

Yours very truly,

A handwritten signature in cursive script that reads "Marcus Aartsen". The signature is written in black ink and is positioned above the printed name.

Marcus Aartsen

cc: Business Action Committee, Business Improvement Association



June 28th, 2016

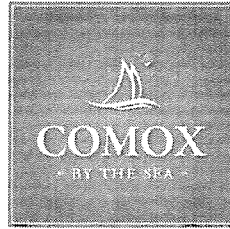
Comox Town Hall
1809 Beaufort Avenue
Comox, B.C.
V9M 1R9

Attention: Mayor Ives and Council

This letter is to advise you that the Blackfin Pub has no issue with the proposed extension of the patio area of Toscanos Trattoria. I have reviewed the plans supplied by Grant Skelly of Toscanos and understand that all safety concerns will be met for the intersection of Beaufort Avenue and Port Augusta Street. If further discussion is required in this matter please do not hesitate to contact me at the number below.

Sincerely,

Edd Moyes
Owner | Operator
Blackfin Pub
C - 250-218-2604



Wednesday, July 6, 2016

Dear Mayor Ives and Council,

On behalf of the Comox Business in Action association I am pleased to write in support of the proposed Toscanos Trattoria Restaurant outdoor deck extension to be constructed at the corner of Port Augusta Street and Beaufort Avenue in Comox. Comox has a growing reputation as a dining destination boasting award-winning culinary experiences coupled with uniquely wonderful seaside views. The extension of the existing deck at the Toscanos Trattoria location will not only enhance the specific site but also add to the overall Comox culinary community.

The Comox By The Sea BIA Executive has considered the general plan for the deck extension and hopes that all safety issues will be addressed with respect to sight lines for drivers and pedestrians etc. We also feel this may be the right moment to consider a four way stop at this intersection. It appears to many of us who work in this area that this particular intersection is the site of many close calls for both cars and pedestrians. We would also suggest crosswalks in all four directions be considered as part of this business expansion.

As a final general comment, we feel the town should consider an offsite-seating levy with respect to any and all seating expansion that involves the use of town property in lieu of private property for commercial use. We feel this is appropriate in order to treat existing private landowners and their tenants fairly and to equitably share the overhead of maintaining our community streets. This should apply to parklets and any other expansion into or over the Town of Comox property as the case may be. This levy could be applied at a market rate for leasing of such space including any additional rent that would normally be charged for such space.

In summary, with some enhanced safety considerations, we fully support this proposed patio and the efforts of the owners to improve the dining options for their patrons.

Sincerely,

Richard DeLuca
President, Comox BIA

cc: Susan Wood, Ex. Director Comox BIA
Grant Skelly, Co-Owner Toscanos Trattoria

Comox Business in Action

P.O. Box #1624, RPO Strn A, Comox BC V9M 8A2

inquiry@comoxbythesea.com comoxbythesea.com facebook.com/comoxbythesea [@comoxbythesea](https://twitter.com/comoxbythesea)

RECEIVED


Mayor and Council
Town of Comox
1809 Beaufort Ave
Comox BC, V98M 1R9

JUL 18 2016
TOWN OF COMOX

*o-file/planning
copies - Council
- RK*

July 15, 2016

Re: Outdoor Patio Toscano's Restaurant

LOG: <i>10-559</i>	REFER:	AGENDA:
FILE: <i>planning</i>	ACTION: <i>file</i>	

Dear Mayor and Council,

I am an active senior in the Comox/Courtenay area and I live above Toscano's Restaurant.

I have been told Toscano's is planning on extending their balcony around the corner on the Beaufort side.

I was surprised to hear this as no-one from the Town of Comox or Toscano's has had the courtesy to even tell me this was being considered.

I spend a lot of time on my balcony, which is situated right above the proposed extension, and am concerned about noise pollution and visual privacy, which are matters of major concern to me.

I also see that at the best of times this corner does not give very good visibility to drivers crossing the intersection and there are several 'fender-bender' types of incidents and near misses occurring frequently.

I am therefore wondering if it is wise to obstruct driver visibility further with the extension of a balcony around the Beaufort corner?

I trust you will take this letter into consideration when deciding about Toscano's plans.

Yours, 


Tom Taylor,
A-144 Port Augusta St
Comox BC V9M 3N6
Tel 250-898-4267

*on file/planning
copies - Council
- RLC*

July 15, 2016

Smitty's Restaurant Comox
1747 Comox Avenue
Comox BC V9M 3M2

Mayor and Council
Town of Comox
1809 Beaufort Avenue
Comox BC V9M 1R9

LOG: <i>10-560</i>	REFER:	AGENDA:
FILE: <i>planning</i>	ACTION: <i>file</i>	

RECEIVED

JUL 18 2016

TOWN OF COMOX

Re: FOR JULY 20th CORRESPONDENCE
Restaurant and/or café patio seating & food trucks, and specifically the outdoor seating application from Toscano's restaurant.

Dear Mayor and staff,

We are the now 5-year-new owners of Smitty's Restaurant in Comox. As you know Smitty's has been a staple in this community for more than 3 decades and with the stars permitting we will continue to be that community staple for many more years to come!

Further to this and as a precursor to the following, we are in full support of ideas for Town improvements, upgrades, and modernizations which continue to make Comox an attractive destination! Nor is this in any way an attempt to halt competition.

We understand that there has been success with what we have been told was the 'pilot project' for outdoor seating at a Café across from Town Hall.

Success is always great news, and whilst a patio on the road is definitely 'groovy', we understand that this outdoor seating by which revenue is being produced, is on Town property ie: the public roadside. We further understand that this road seating is technically considered 'public seating'. This is certainly not clear when the glass partitions surrounding the seating is clearly signed with the business name and logo.

We also hold concerns to the ease at which a mobile kitchen is able to operate on Town property such as Marina Park.

Furthermore, it has now been brought to our attention that Toscano's restaurant has applied to the Town for permission to create similar seating on Town property surrounding their building, with the intent to increase their business and revenue.

We understand at one time there was a ruling that a restaurant must provide a set number of off-street parking stalls for their patrons; however, a couple of years ago this ruling was lifted.

This may be an opportunity for restaurants applying to build a patio, that they may do so upon their own property where parking might currently exist.

We are in general agreement with the owner of Martine's Restaurant; and we suspect there are others, that it appears the Town may be subsidizing some businesses in competition with some of us who are fully and consistently paying our many thousands of tax dollars, and we also feel this is grossly unfair.

We would very much like the opportunity to meet with council staff to discuss our concerns.

Sincerely,




Wil Baum
Brooke McGill
Smitty's Restaurant Comox

Cc: BAC, BIA

JULY 20, 2016

ATTACHMENT 3**PROCESSING PROCEDURES**

1. First, Second and Third Reading of Comox Beaufort Avenue Road Allowance Closure Bylaw No. 1846;
2. Public notification of Bylaw No. 1846 and proposed disposition of land;
3. Opportunity for persons who consider they are affected by the Bylaw No. 1846, or proposed disposition of land to make representations to Council at a Regular Council Meeting;
4. Adoption of the proposed Bylaw No. 1846; and
5. Execution of the licence agreement.