



AGENDA

**Agenda for the Special Meeting of the Tahsis Village Council
to be held on September 21, 2021 in the Council Chambers at 2:30 p.m.
Municipal Hall, 977 South Maquinna Drive and by electronic means**

Remote access: To attend this meeting remotely via Zoom/ phone

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A. Call to Order Mayor Davis will call the meeting to order at 2:30 p.m.

Mayor Davis will acknowledge and respect that we are meeting upon
Mowachaht/Muchalaht territory.

**B. Introduction of
Late Items** None.

**C. Approval of the
Agenda**

H. Business Arising
1 Hearing by Council to determine whether one or more buildings located at civic address
**1400 S. Maquinna should be declared a nuisance under Part 3, Division 12 of the
Community Charter and whether to impose a remedial action on the property owner.**

P. Adjournment

VILLAGE OF TAHSIS

Report to Council

To: Mayor and Council

From: Chief Administrative Officer

Date: August 26, 2021

Re: Hearing by Council to determine whether one or more buildings located at civic address 1400 S. Maquinna Drive should be declared a nuisance under Part 3, Division 12 of the *Community Charter* and whether to impose a remedial action on the property owner (the “**Hearing**”).

This report is prepared in anticipation of the Special Meeting of the Tahsis Village Council scheduled for Tuesday, September 7, 2021 at 2:00 p.m. for a Hearing by Council to determine whether one or more buildings located at civic address 1400 S. Maquinna Drive should be declared a nuisance under Part 3, Division 12 of the *Community Charter* and whether to impose a remedial action on the property owner (the “**Hearing**”).

The property in question is more particularly described as follows: Lot 4, Plan VIP46590, District Lot 443, Nootka Land District, & DL 493 (PID: 011-442-280), with Civic Address: 1400 South Maquinna Drive, Tahsis, B.C. (the “**Property**”).

The owner in fee simple of the Property is 1031249 B.C. Ltd. (the “**Owner**”), which has its registered and records office at 353 Chemainus Road, Ladysmith, BC, V9G 1Y1. The Owner’s sole Director is Ms. Stace Nielsen, who shares the same address as the registered and records office of the Owner.

Staff have investigated title to the Property and there are no financial charges or mortgages registered on title. Accordingly, staff have given notice of the Hearing to the Owner, and there are otherwise no registered financial interest holders in the Property to whom to provide notice.

On November 10, 2020, the Village of Tahsis Bylaw Compliance Officer served the Owner with a Notice to Comply pursuant to the Village’s Property Maintenance Regulation Bylaw No. 614, 2019 (the “**PM Bylaw**”).

The Owner was subsequently notified that Village Council would consider the Owner's non-compliance with the PM Bylaw at a Council Meeting held March 16, 2021. Ms. Nielsen appeared at that Council Meeting and addressed Council and Council adopted the attached Resolution under s. 37 of the PM Bylaw requiring the Owner to take a number of actions to clean up and remediate buildings on the Property by no later than May 17, 2021.

See Attachment #1 – Council Resolution, March 16, 2021

The Owner failed to undertake those actions ordered by Council.

The Village has received one formal complaint and several email and verbal complaints over the past year from members of the community regarding the appearance of the buildings on the Property and their generally unkempt, unclean and dilapidated state.

Staff engaged members of the Strathcona Regional District ("SRD") to conduct an inspection of the Property on June 17, 2021, under the Village's service agreement with the SRD for bylaw and building inspection services.

The SRD staff who conducted the inspection of the Property on June 17, 2021 prepared the attached report of their observations, including photographs and video taken of the Property and the exteriors of the buildings on the Property (the "**Inspection Report**").

See Attachment #2 – Property Inspection Report, June 17, 2021

On August 9, 2021, Village staff wrote to Ms. Nielsen and the Owner via email to advise, among other things, that "On September 7, 2021 at 2:00 PM, Tahsis Council will convene a Special Meeting to receive a staff report and consider draft resolutions regarding the above referenced property. The draft resolutions Council will consider will pertain to whether the property is deemed a nuisance and is so dilapidated and unclear as to be offensive to the community under s. 74 of the *Community Charter*."

The Inspection Report refers to four buildings on the Property, labelled and identified as "Building 1", "Building 2", "Building 3", and "Building 4".

Building 2 is further described as being located along South Maquinna Drive and being in the nature of a commercial centre.

Building 3 is further described as being located along the water side of Tahsis Inlet and is also identified as being in the nature of a former commercial centre.

Buildings 2 and 3 (the "**Buildings**") are colloquially referred to by some members of the local community as the "mall".

The Inspection Report provides numerous photographs of all exterior sides of each of Building 2 and Building 3 and shows their condition.

(The video from the inspection report is being provided to Council and the property owner separately.)

Pursuant to s. 74(2) of the *Community Charter*, SBC 2003, c. 26 (the “**Community Charter**”), Village Council may declare that it considers a thing, including a building or buildings, to be so dilapidated or unclean as to be offensive to the community and Council may impose a remedial action requirement in relation thereto:

Declared nuisances

74 (1) A council may declare that any of the following is a nuisance and may impose a remedial action requirement in relation to the declared nuisance:

- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
- (b) a natural or artificial opening in the ground, or a similar matter or thing;
- (c) a drain, ditch, watercourse, pond, surface water, or a similar matter or thing;
- (d) a matter or thing that is in or about any matter or thing referred to in paragraphs (a) to (c).

(2) Subsection (1) also applies in relation to a thing that council considers is so dilapidated or unclean as to be offensive to the community.

Should Council make such a finding in respect of a building or buildings, Council may then consider and determine whether to impose a remedy under s. 72 of the *Community Charter*.

Council may impose remedial action requirements

72 (1) A council may impose remedial action requirements in relation to

- (a) matters or things referred to in section 73 [*hazardous conditions*],
- (b) matters or things referred to in section 74 [*declared nuisances*], or
- (c) circumstances referred to in section 75 [*harm to drainage or dike*].

(2) In the case of matters or things referred to in section 73 or 74, a remedial action requirement

(a) may be imposed on one or more of

(i) the owner or lessee of the matter or thing, and

(ii) the owner or occupier of the land on which it is located, and

(b) may require the person to

(i) remove or demolish the matter or thing,

(ii) fill it in, cover it over or alter it,

(iii) bring it up to a standard specified by bylaw, or

(iv) otherwise deal with it in accordance with the directions of council or a person authorized by council.

(3) In the case of circumstances referred to in section 75, a remedial action requirement

(a) may be imposed on the person referred to in that section, and

(b) may require the person to undertake restoration work in accordance with the directions of council or a person authorized by council.

Village Staff have provided a copy of this Staff Report, Attachments #1 and #2 and the video files which form part of Attachment #1, to Ms. Nielsen and the Owner in advance of the Hearing and advised, among other things, that should the Owner wish to make representations to the Council regarding these matters, the Owner should appear at the time, date and place of the Hearing set out above to make a presentation to the Council.



Mark Tatchell,
Chief Administrative Officer

Attachments:

- *Attachment #1 – Council Resolution, March 16, 2021*
- *Attachment #2 – Property Inspection Report, June 17, 2021*

**Minutes**

<u>Meeting</u>	Regular Council
<u>Date</u>	16-Mar-21
<u>Time</u>	7:00 PM
<u>Place</u>	Municipal Hall - Council Chambers and by electronic means

<u>Present</u>	Mayor Martin Davis	
	Councillor Bill Elder	
	Councillor Sarah Fowler	
	Councillor Cheryl Northcott	by video
	Councillor Lynda Llewellyn	by video

<u>Staff</u>	Mark Tatchell, Chief Administrative Officer	
	Shelley Debruyne, Administrative Coordinator	by video
	Janet St-Denis, Corporate Services Manager	by video
	Enzo Calla, Bylaw Enforcement Officer	by video

M. New Business**2 1400 S. Maquinna Drive RE: Order to Comply****Fowler/Elder: VOT 0113/2021**

Moved, seconded by Councillors Fowler/Elder **THAT** this information be received.

CARRIED

Stacie Nielsen, the sole director of 1031249 B.C. Ltd., 1400 South Maquinna Drive addressed Council in response to the Notice to Comply issued on November 10, 2020.

Fowler/Elder: VOT 0114/2021

Moved, seconded by Councillors Fowler/Elder

WHEREAS a Notice to Comply made under the Property Maintenance Regulation Bylaw, 2019, No. 614 (the "Bylaw") and dated November 10, 2020 was served on 1031249 B.C. Ltd ("the Property Owner") on or about the same date in respect of the non-compliance of 1400 S. Maquinna Drive, Lot 4, Plan VIP 46590, DL 443, Nootka Land District and DL 493, (the "Property") with the Bylaw; and

WHEREAS the Property is an Unsightly Property per the terms, and in contravention, of the Bylaw, including sub-section 9(1) thereof, due to the exterior surfaces of the buildings on the Property containing rotted, crumbling, cracking, decayed, neglected and unmaintained materials and appurtenances, including a slumping roof, missing eaves, downspouts and roof drains, rotted exterior building cladding, and the presence of mold and water damage in exterior building materials, all to such an extent that as a whole the Property looks unkempt, unmaintained and in disrepair; and

WHEREAS the Property is in contravention of sub-section 9(2) of the Bylaw by reason of the exterior materials of the buildings on the Property showing the presence of mold, which is a noxious material; and

WHEREAS the buildings on the Property have insufficient and inadequate water drainage equipment to prevent water accumulation on the Property and water has accumulated on the Property and not been properly drained in contravention of sub-sections 17(1) and (2) of the Bylaw; and

WHEREAS the Notice to Comply provided a deadline for compliance of January 17, 2021, but the Village provided the Property Owner with extensions until February 25, 2021; and

WHEREAS the Property Owner has failed to comply with the Notice to Comply by the deadline of February 25, 2021 and there have been no improvements to the property to address the non-compliance with the Bylaw as set out in the Notice to Comply; and

WHEREAS Council is authorized under s. 37 of the Bylaw to make an Order to Comply,

THEREFORE, BE IT RESOLVED THAT:

Council makes the following order under s. 37 of the Bylaw:

1. The Property Owner must, by no later than May 17, 2021, comply with the Bylaw, including by doing the following:
 - a. Repair or replace the slumping roof of the buildings on the Property so that the roof is no longer unmaintained, neglected and unsightly;
 - b. Repair or replace all rotted cladding on the buildings on the Property so that the cladding is no longer unmaintained, neglected and unsightly;
 - c. Repair or replace all water-damaged materials on the exterior of the buildings on the Property so that they are no longer unmaintained, neglected and unsightly;

- d. Install eavestroughs, downspouts and roof drains on all buildings on the Property so that they are no longer unmaintained, neglected and unsightly and to ensure that water is does not accumulate and is drained in a manner that does not cause it to enter into a building or onto adjoining properties;
 - e. Eliminate all mold through a sanitization process or other similar process, or through the removal and replacement of the building materials containing mold with building materials that are free from mold and other noxious materials; and
2. The Property Owner must retain a professional contractor experienced in the cleaning and removal of mold to conduct the cleaning, remediation and/or replacement of any materials containing mold to ensure the safety of the Property Owner and the community;
3. The Property Owner must comply with all other applicable bylaws, statutes, regulations, codes and other laws in undertaking the work required hereunder, including by obtaining all relevant and required work, safety, building and other permits for any construction or cleaning and remediation works;
4. If the Property Owner fails to comply with this Order to Comply of Council under section 37 of the Bylaw, the Village, by its employees, contractors or agents, may act in accordance with section 17 of the Community Charter to fulfil the requirements of the Order and to recover the costs of doing so as a debt due to the Village from the Property Owner that is the subject of the Order; and
5. If any of the costs of carrying out this Order of Council under section 37 of the Bylaw remain unpaid on December 31st of the year in which the costs were incurred, the costs may be added to the property taxes for the Property and be recovered as taxes in arrears from the Property Owner.

CARRIED

The follow observations were noted during exterior building inspection that was conducted on June 17, 2021, at 1400 South Maquinna Drive between the hours of 11:30 and 14:00hrs. The inspection was done by Strathcona Regional District Building Official Karl Neufeld and Strathcona Regional District Bylaw Compliance Officer Enzo Calla.

The second page is of an arial photo of the four buildings that are associated with the property located at 1400 South Maquinna Drive that were inspected from the exterior.

For reference the buildings were labelled 1 through 4. The exterior inspection was conducted in in a clockwise fashion with each side of the buildings give a letter from A through D.

Building 1- located at the South end of the property is identified as residential structure.

Building 2 - located along South Maquinna drive is identified as a commercial center.

Building 3 – located along the water side is identified as a commercial center.

Building 4 - located at the North end of the property and is identified as the hotel/restaurant



IMG_0271

BUILDING 1

The exterior inspection commenced with building 1 which is identified as the residential structure. A complete walk around the structure was done first to confirm that the area was passable and that there were no hidden dangers or fall hazards. During the initial walk around, it was noted that the building was in restively good repair. Starting with side A which had 2 doors and a carport or cover vehicle area;

BUILDING 1 SIDE A

Dry rot was identified at the downspout at the front entrance (image below is img_0270).

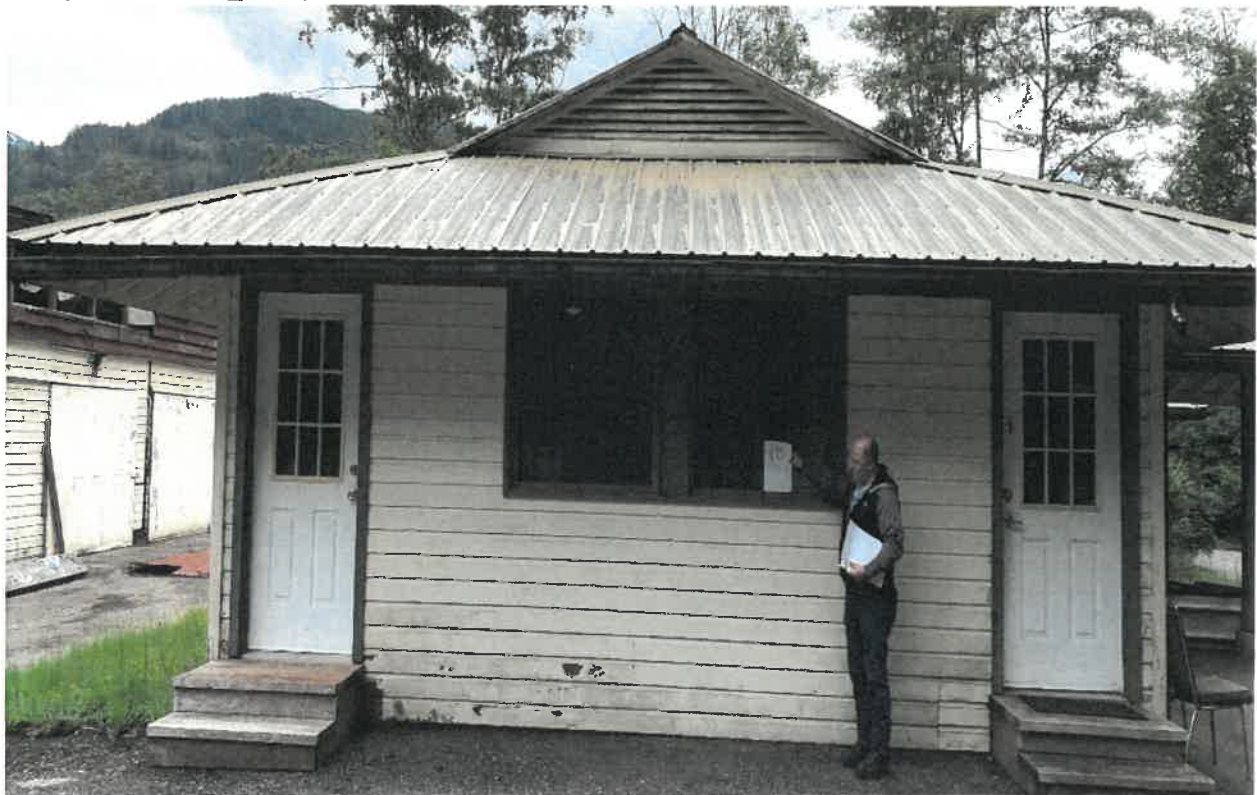


IMG_0270



Note facial rotting on the corner at the bottom of the down spout. This will be on the left side of the wall as depicted in picture above.
IMG_0272

Facial rotting in the left corner by doorway that is located at the left-hand side of the building.
(Image below IMG_0274)



BUILDING 1 SIDE B



IMG_0273-above

Apart from paint that was peeling and wood replaced by door, nothing was observed on the B side of the structure.

BUILDING 1 SIDE C

IMG_0276-below



Metal roof appeared to be lifting as it was due to the metal screws that lifting (it is unknown how long the roof has been in place). Please note, that this was a panoramic shot to include the entire side of the roof.

BUILDING 1 SIDE D

IMG_0278 - below



Note although this is the D side of building 1, captured a part of the C side of building 3 is in view of the portion of roof that has collapsed

Dry rot was in seen the lower corner on the C/D side

Siding was missing all along the side at ground level

Deterioration of the siding along the ground by the patio

BUILDING 2

Although building 2 had some areas that were overgrown with vegetation and access was limited to view the base of the structure. For notation, the A side of the building along Maquinna Drive is the receiving area or back entrance with side C of the building being the commercial or front entrance.



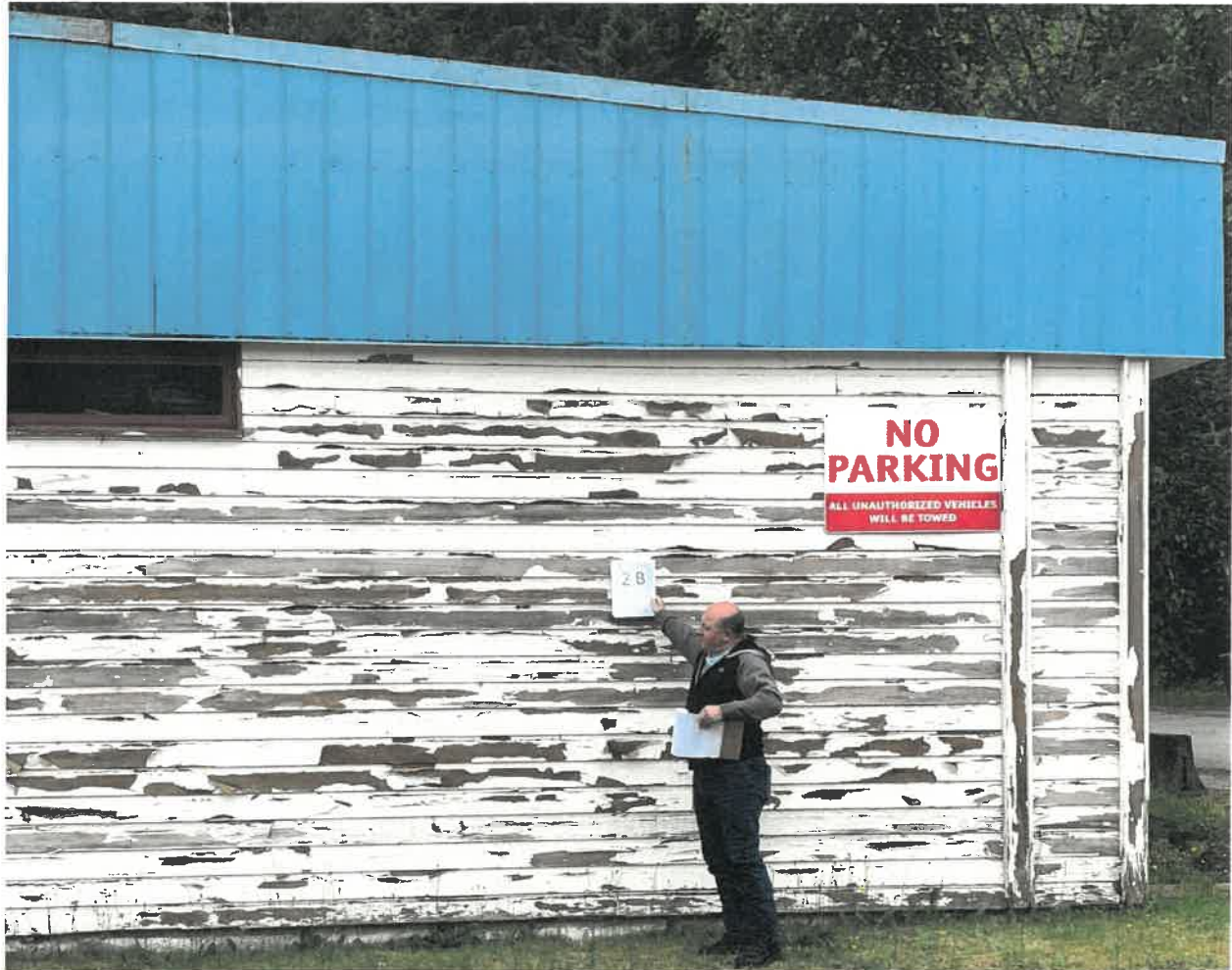
IMG_0279 - above

BUILDING 2 SIDE A

Doorway at the South end of the was inaccessible dur to overgrown vegetation. The base and foundation could not be observed. Doorways are covered with plywood.

Paint was found to be peeling and rot along the bottom of the wall along the length of this side of the building.

BUILDING 2 SIDE B



Note, paint is peeling and dry rot of the wood siding along the bottom of the wall (IMG_0280 & 0281)

BUILDING 2 SIDE C

A short video that was taken encompass the length of the C side (which is include with this report on a memory stick). Of note the entire side is covered by an overhead cover which has spared direct contact from the element to some extent. While the cement support pillars appear to be intact, there is rot along the bottom edges of the store front windows that can be seen, roof shows significant signs of rot along the fascia and roof. Roof is believed to be asphalt with metal trim. Roof appears to be in poor shape, indications of leaking visible and may have compromised the structure (a structural engineer will required evaluate to confirm this assumption).

Also noted in the video, show signs of the drywall from the roof that has fallen along with mold that is staining the windows





Ceiling exposed in the interior of unit 4. Mold was visible on the interior from the exterior and musty odour noted while taking photos.

BUILDING 2 SIDE D

Due to wood pile stacked directly next to the building unable to see the base of the building. Please see the attached video clip with supporting video.

Not thought to a bearing wall from the exterior. Rot can be seen in spots along the base and may well have continued into the structure, paint on the exterior of the wall can clearly be seen peeling. Due to overgrown vegetation can see in spots where base of the siding has rotted.

BUILDING 3

BUILDING 3 SIDE A

While the A side of the building is partially protected from the elements under the covered area and seem in relatively good condition at ground level at first glance. Closer look revealed that the plywood around the store front had numerous holes, rot along the wall in various areas peeling paint along with heavy



mold staining was observed on the interior curtains and windows. Vinyl siding by the A/B wall is in relatively good shape but could also be hiding further rot.





Above the flat roof that has protected the store front the roof section is open and exposed to the elements and is believed to be heavily rotted. Numerous penetrations were observed in the walls that were most likely for utilities (see video attached to report). The cover area flat roof appears to have leaks that has water to pass through, dampness underneath the covered area on concrete suggest this leaking.

BUILDING 3 SIDE B

Vinyl on the B side of the building has limited the ability to observe any structural concerns. It was observed that the along the roof line the facial is a 5 tiered that has mildew and other organic growth and peeling paint. No photos of the B side were taken, video with these comments will be on the memory stick.

BUILDING 3 SIDE C

Access from the B side of the building was hampered by a fence that blocked the concrete walkway and overgrown vegetation. Review was then started from the D side of building walking towards the B side of the building. Right away it was noted that this wall is at the point of further collapse due to the siding pulling off and facial board boding outward, heavily rotted along the entire length. Note in the photos below towards the center of the building daylight can be seen in the interior of the building where the roof has collapsed. Currently wall is still standing, numerous sheets of plywood have been attached to the structure to try and re-enforce the wall. Structural Engineer should evaluate. Geotech Engineer should also be engaged to evaluate the location, due to the undermining of the foreshore and the location of the foundation in relation to the foreshore.





Video of this is available on the memory stick attached (img_293 and img_295). Video of roof collapse in the center section, rafters appear to be sliding into the center of structure. Of note in this (img_295) video a tree has grown in the interior of the structure above the roof line, the age of this tree would be a good indicator as to when the collapse occurred





BUILDING 3 SIDE D



Starting With the C/D corner of wall D working towards the A side of the wall is in complete disrepair as is heavily rotted throughout. Judging by the bigger rotting timbers in the center section, this appears to

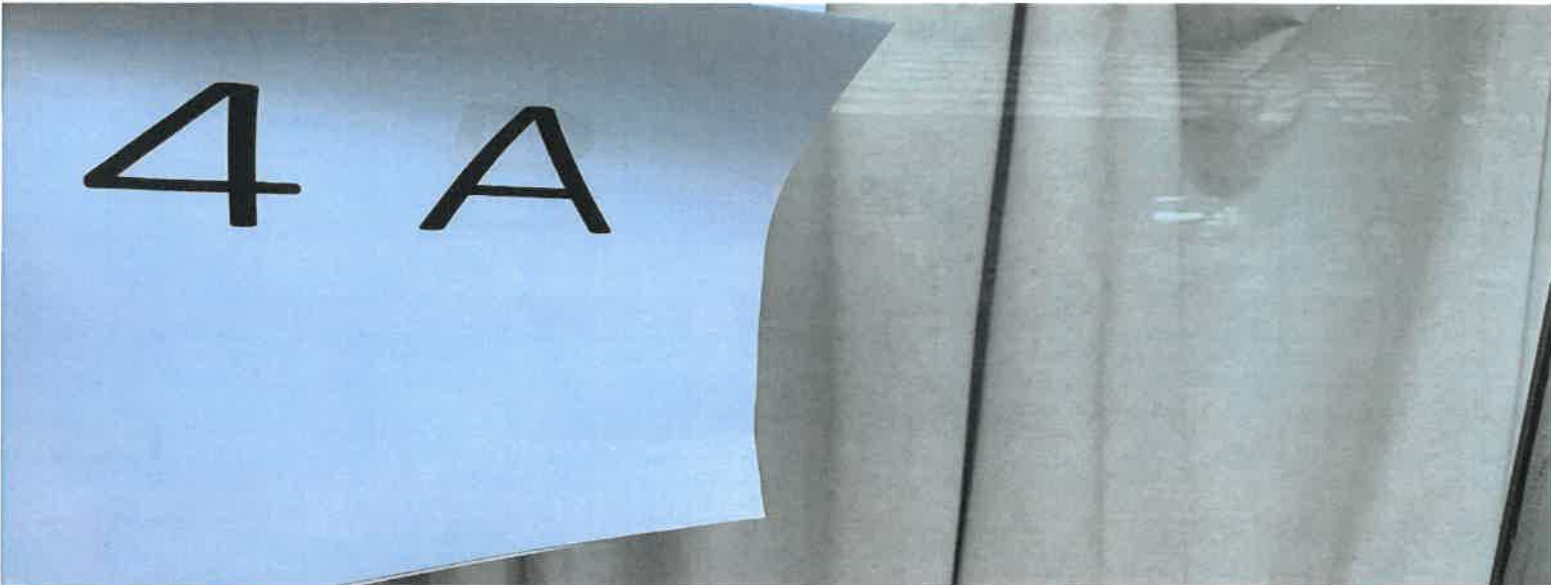
be a structural or load bearing (this will need to be confirmed by structural engineer as no building plans were available during inspection). Roof section, attic space open from one end to the other and is directly exposed to the elements. (video showing this is img_297 on attached memory stick).





BUILDING 4

BUILDING 4 SIDE A





It is noted that the maintenance on this building appeared to be more current then was seen on building two and three.



Starting on the A side and looking down the length of the building. The hotel room section/wing of the



hotel is a two-story structure, with the center section of the roof above the lobby /restaurant area being covered with tarps. While the above image shows rot at the edge of the roof, it would be a speculation as to the condition of the rest of the roof. Overgrown vegetation curtains being drawn hampered ability

to see into the windows of the hotels rooms to assess interior, in the above photos in the interior curtain covered with mold spores and along the roof line. Of note the metal roof appears to be properly installed and intact on this wing of the building.

The center section is one story, the center section of the building by the front entrance/reception area building material has been left in place along the ground. As seen in the photos above the center section covered with tarps appears to be cedar shake under the tarps. Apart from the edge unable to ascertain the condition of the roof or whether old roof is still in place or has been removed and has been replaced. Please see video (img_300) on attached memory stick.

Continuing along the wall towards what is the pub entrance (this is identified by sign outside announcing Captain Cooks Pub), some deterioration was observed in the bottom corner of the wall, this is likely not structural (structural engineer to confirm). Doorway entrance to pub visible rot at the bottom of the doors, trim appears to be buckling out, this suggests the rot has penetrated to the structure of the building (again to be assessed by a structural engineer). It is noted that due to the large overhang (four to five foot) has done a great job of protecting the side of the building.

BUILDING 4 SIDE B

It is noted that there is a second entrance to the pub area. Rot was again found in the door frame in the lower corner. It appears that the concrete walkway is sloped towards the building, this is caused pooling against the structure and resulted in further deterioration along the ground. Travelling along the wall it is noted that there is a metal roof over this section. The metal roof may have been installed over the existing cedar shake roof; this could explain the rippling in the way the metal roof was laid out. Due to vegetation along roughly half of the side, unable to ascertain condition of the wall along the base. The other half of the side where there was no vegetation extensive rotting along the base of the wall was observed. Please note that the rotting is believed to be from the interior of the building to the exterior as there is no plausible explanation for the rotting to occur in this area, this could be explained due to machinery that had failed on the interior. Loading area piles of construction and machinery has been abandoned. Loading doors are being held closed by plywood and the entrance to what is believed to be the kitchen is being held closed with a chair. No photos were taken of this wall, please see attached video (img_301).

BUILDING 4 SIDE C

The C side of the building is the ocean side of the building. It is noted from this side there are tarps covering parts of the first floor and second floor. Part of the second-floor roof still cedar shake, it is assumed that cedar shake is also under the tarped area with the other section was replaced with metal. Due to the large overhangs, this building has fared better than buildings two and three. There was not much found on this side apart from a broken window, peeling /weathered paint and all the gutters and downspouts have been removed to place the metal roof on and never replaced. Mild deterioration noted on the middle wood band. At the C/D corner of the wall it is noted that the balcony is in poor condition





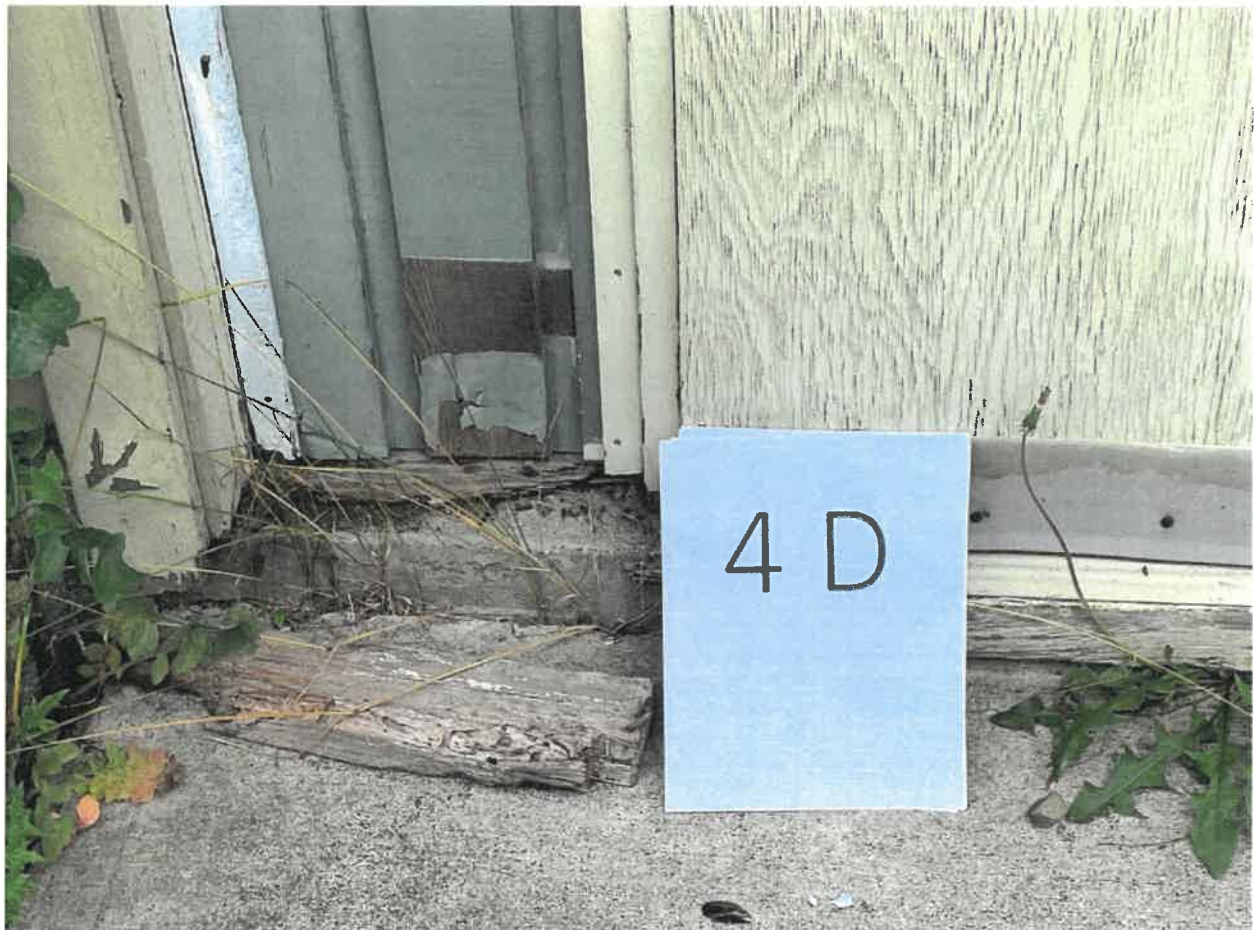


Note interior ceiling is cracked and falling. Unsure if this is related to water damage from tarps that are on the roof over this area





BUILDING 4 SIDE D





New metal roof completed on this side of the building (img_306). As noted from side C the deck pictured above is in poor condition, support post noted to have been replaced. Deterioration and rotting was observed along the bottom of the wall, by the exit door and by D/A corner.