



Targeted Land Use Bylaw Improvements:

April 22, 2024

Submitted to District of Central Saanich
Prepared by McElhanney

Baseline Findings Report

Contact

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A faint, stylized topographic map of the United States is visible in the background, rendered in light green and grey lines. The map shows contour lines and state boundaries, with a dashed line running through the center of the country.

**Your Challenge.
Our Passion.**

1. KBD / I1 – Light Industrial Land Use Bylaw Amendments

The District's OCP contains policies to advance opportunities for development in the Keating Business District (KBD). The relevant KBD related policies that were included in the RFP for this project were as follows:

OCP 4.4.10 To support the Keating Business District, consider amendments to the Land Use Bylaw to:

- a. *Allow for taller buildings within the Service Commercial area on Keating Cross Road for the purpose of creating rental housing above ground floor commercial;*
- b. *Increase the permitted building height in Industrial zones;*
- c. *Review the list of permitted uses in the industrial zones to prioritize industrial operations and accessory uses, give careful consideration of permitted commercial or residential uses so that they do not detract from or impinge upon industrial uses, and consider other non-industrial zoning in the Keating Business District; and*

1.1. SUMMARY OF KBD / I1 – LIGHT INDUSTRIAL ZONING RECOMMENDATIONS

This section focuses on recommended approaches to improve the range and variety of industrial development in the KBD, and the I1 – Light Industrial zone.

OCP 4.4.10 a) Allow for taller buildings within the Service Commercial area on Keating Cross Road for the purpose of creating rental housing above ground floor commercial;

Based on our analysis of the current zoning, precedents elsewhere, a jurisdictional comparison, review of past consulting reports on the subject by Rollo and Associates (Industrial Market Analysis, 2021) and Stantec (KBD Implementation Plan, 2017), and interviews with land and business owners in KBD, we recommend not advancing any zoning bylaw changes related to this policy. We expand on this further in section 2.2 of this report.

OCP 4.4.10 b) Increase the permitted building height in Industrial zones

Based on our analysis of the current zoning, precedents elsewhere, and a jurisdictional comparison, we recommend increasing the height to 15m in the I1 zone. We expand on this further in section 3 of this report.

OCP 4.4.10 e) Review the list of permitted uses in the industrial zones to prioritize industrial operations and accessory uses, give careful consideration of permitted commercial or residential uses so that they do not detract from or impinge upon industrial uses, and consider other non-industrial zoning in the Keating Business District;

Based on our analysis of the current zoning, precedents elsewhere, and a jurisdictional comparison, we recommend creating a new General Industrial land use classification to capture a broader cross-section of industrial uses than the current approach. There is also an opportunity to remove non-industrial uses such as travel agent and fitness centre, if desired. We expand on this further in section 2 of this report.

Finally, the District could consider amendments to the OCP to remove discussion of rental housing in 4.4.10 a) and 4.4.10 e) to bring closure to this issue.

1.2. RENTAL HOUSING ABOVE GROUND FLOOR COMMERCIAL IN KBD

Allowing additional height within the Service Commercial areas on Keating Cross Road for the purposes of creating rental housing above ground floor commercial was carefully considered and evaluated in accordance with the scope of this study. A key consideration is that this OCP policy objective, along with the OCP, was developed in 2022 and adopted in April 2023, prior to the passage of Bill 44 in late November 2023. In light of the passage of Bill 44 and the Provincial direction to implement Small Scale Multi Unit Housing and the general intensification of housing across the District, there is now an opportunity to review the opportunity for existing residential land use designations and zoning to accommodate more housing, including rental housing, in an effort to provide more affordable housing across the District.

1.2.1. KBD Business and Property Owner Input

Input was gathered from businesses and property owners in a round table engagement meeting on January 11, 2024. Feedback on the issue of residential use within the Service Commercial areas on Keating Cross Road included the following:

- This is a real industrial area that can take more serious stuff and don't want to dilute this strength.
- Keep the industrial nature of the area
- Putting industrial and residential together can cause problems
- Concern about residential creating conflict between land users and residents
- Residential around the periphery might be better placement for density
- Housing for workers is a challenge, but look at densifying areas outside KBD
- We are losing industrial land in the CRD, need to keep it or we are going to lose our on-Island industrial jobs

1.3. TRAVEL TIME ANALYSIS

Feedback from industrial property owners on avoiding adding residential use to the KDB area directly, led to a planning analysis to determine what alternative approaches could be taken to bring more residential uses in proximity to KBD. Given the short travel distances in the District, and short travel times from existing and soon to be intensified residential areas a geospatial analysis demonstrates it is possible to locate new rental housing forms in relative proximity to KBD, potentially avoiding the need for locating it within the KBD Service Commercial area. A spatial analysis completed by McElhanney shows the potential travel times to KBD from residential areas under a variety of modes.

1.3.1. Automobile Travel Time

Automobile travel time to the KBD from residential areas in the District of Central Saanich are generally within 3 to 7 minutes. This short travel time reflects the District's current road network and the availability of numerous travel route options for automobiles. See Figure 1 for Automobile Travel Time

1.3.2. Bicycle Travel Time

Bicycle travel time to the KBD from residential areas in the District of Central Saanich are generally within 5 to 15 minutes. This is a fairly reasonable amount of travel time by bicycle, but it should be noted that this performance reflects the current supply of bike routes on various roads and does not factor in the use of bikes on transit to accelerate the journey. Performance could be augmented by taking bikes on transit or improving the availability of bike routes and cycling paths within the District. See Figure 2 for Bicycle Travel Time.

1.3.3. Walking Travel Time

Walking travel time to the KBD from residential areas in the District of Central Saanich are generally within 15 to 45 minutes. It should be noted that this performance reflects the current limited supply of sidewalks on various roads and does not factor in the use of transit to accelerate the journey. Performance could be augmented by taking transit or improving the availability of sidewalks and walking paths within the District. See Figure 3 for Walking Travel Time.

Figure 1. Automobile Travel Time

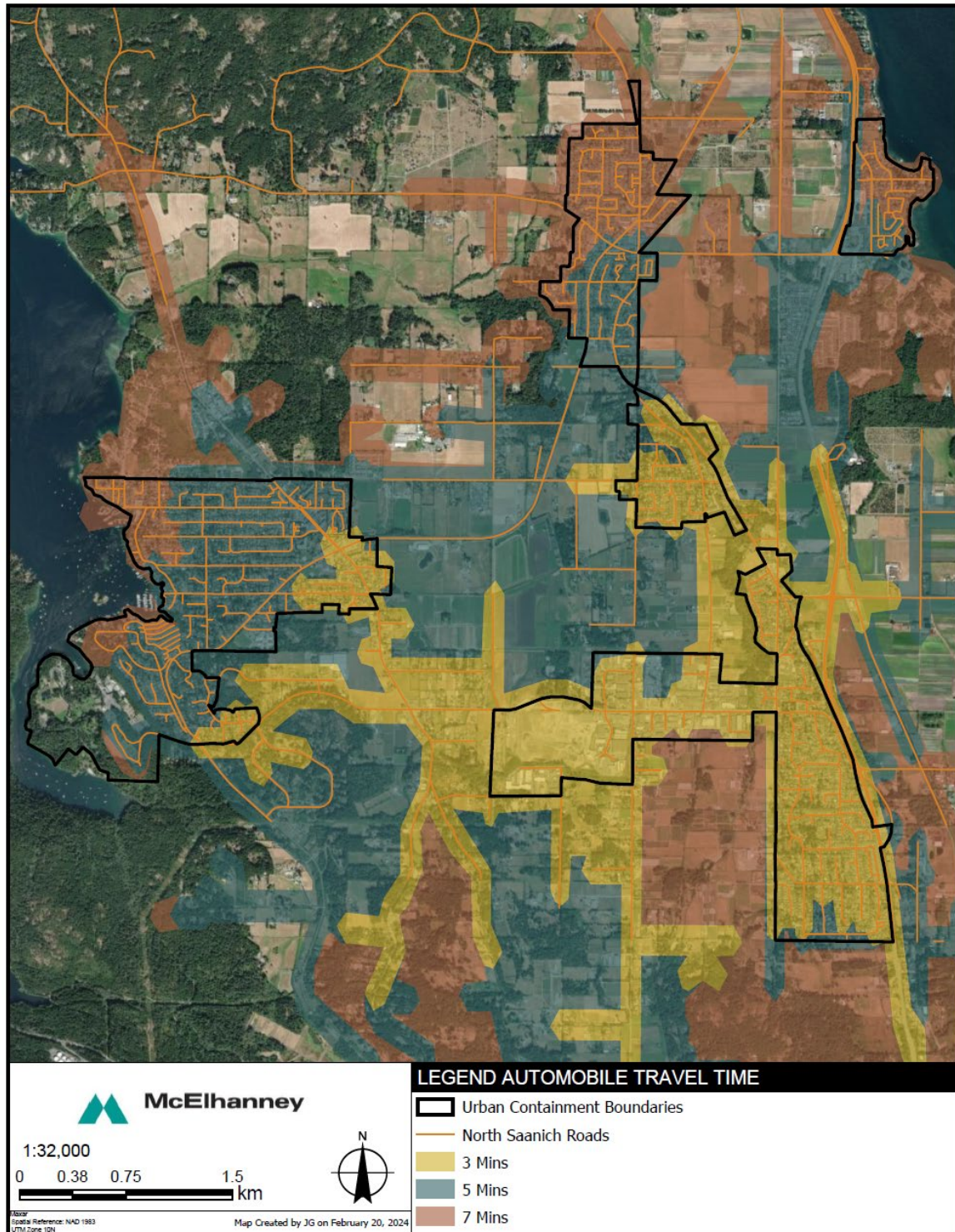


Figure 2. Bicycle Travel Time

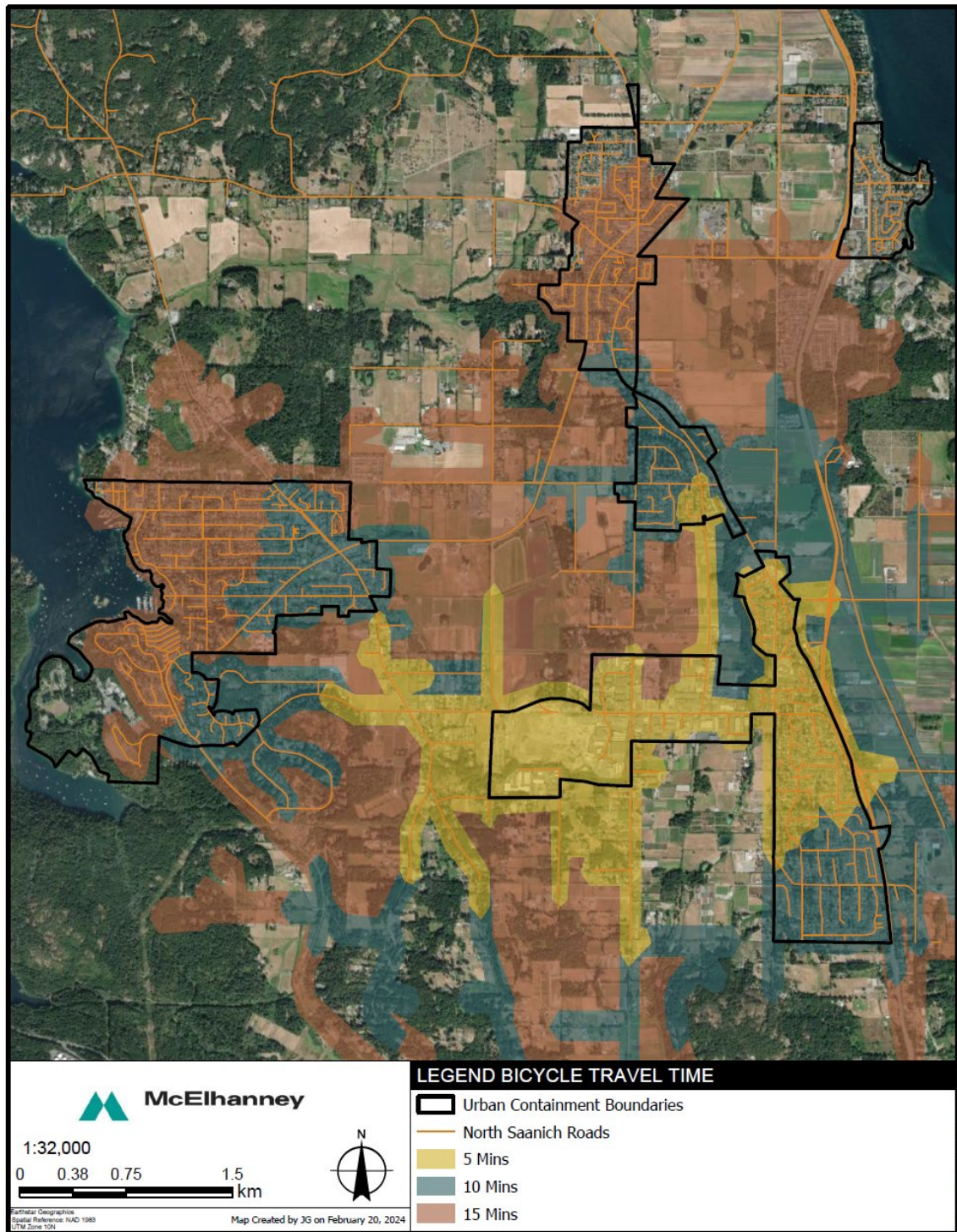
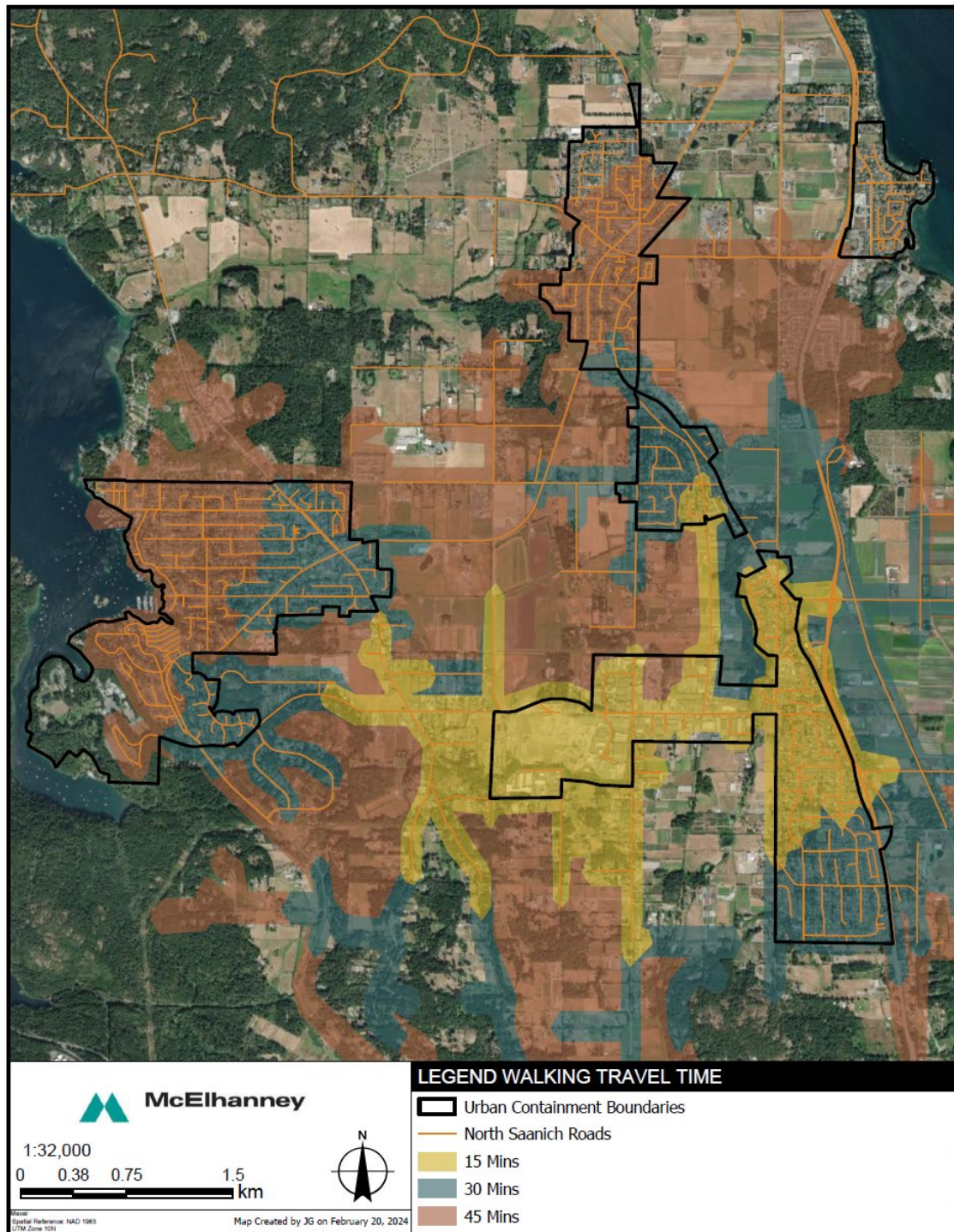


Figure 3. Walking Travel Time



Interviews with KBD business and land owners revealed limited support for including residential uses in the Service Commercial area. They expressed the following concerns

- Not interested in redeveloping their sites in this way
- Concerns with the potential for complaints from residents related to noise, parking, and other nuisances associated with living in an industrial-commercial setting
- Insufficient residential-serving amenities, including access to parks and transit
- Constraining the potential expansion of the KBD and future industrial intensification

Our review of past reports included the Keating Business District Implementation Plan prepared by Stantec (2017), which noted:

- Industrial land shall be protected for industrial use; commercial and retail uses will be minimal and supportive of the industrial uses in the KBD.
- Residential development within the KBD will not be considered, except for live work opportunities that are demonstrated as compatible with light industrial and minor commercial and retail activities.

Similarly, the Industrial Market Analysis prepared by Rollo and Associates (2021) noted:

- The development of housing closer (emphasis added) to the KBD would encourage [industrial] redevelopment
- Including residential uses in the KBD would lead to nuisance-related issues and generally discourage industrial growth by limiting the range of practical industrial operations in the area
- Retail is beneficial in the KBD but residential is not, including residential uses in the KBD - even in the form of live / work space is inadvisable as it may create nuisance-based conflicts and discourage some kinds of industrial use

1.3.4. Regional Industrial Land Supply Considerations

Within the CRD, and as noted in the Industrial Market Analysis by Rollo and Associates, industrial land is in short supply, with KBD representing 17.6% of the entire regional industrial land supply, and vacancies are low at less than 1%. Any loss of industrial land base diminishes the availability of land to serve the industrial market sector, represents a loss to the municipal tax base, and weakens the competitiveness of the region.

1.4. RECOMMENDATION:

Based on the initial discussion with KBD owners and operators, as well as past planning studies, and best practices in regional industrial planning, our recommendation is not to introduce residential uses into the KBD Service Commercial area, but instead to focus on increasing the availability (supply) of housing in areas outside the KBD and across the District. Finally, the District could consider amendments to the OCP to remove discussion of rental housing in 4.4.10 a) and 4.4.10 e) to bring closure to this issue.

2. Expanded Uses in the I1 – Light Industrial Zone

A jurisdictional scan of the allowable industrial uses, and how these uses are defined in comparison to other jurisdictions identified by District staff and McElhanney, reveals that among the comparable jurisdictions all but three employ an industrial use class or a combination of use classes and specific uses in their land use/zoning bylaws. Out of 11 jurisdictions, only the District of Central Saanich, the City of Abbotsford and the Town of Sidney exclusively rely on lists of narrowly defined uses to regulate industrial uses. Table 2 below summarizes the details of these findings. After the table, the use class definitions from each jurisdiction is provided.

Table 4. Industrial Use Regulations

Jurisdiction	Zone	Approach to Uses
<i>District of Central Saanich</i>	<i>I1 – Light Industrial</i>	<i>Narrowly defined uses</i>
City of Langford	M1 – Light Industrial	Industrial use (light) use class, and a variety of narrowly defined uses.
Township of Langley	M-1A and M1-B Service Industrial Zones	General industrial use class and narrowly defined uses.
City of Abbotsford	I2 – General Industrial Zone	Narrowly defined uses (34)
City of Powell River	M1 – General Industrial	Industrial use class, transportation use class, and narrowly defined uses and other use classes
Town of Sidney	M1 – Industrial	Narrowly defined uses
City of Courtenay	I-1 – Industrial One Zone	Manufacturing use class, and narrowly defined uses (3 only)
City of Delta	I1 – Low Impact Industrial Zone	Low impact industry use class, and narrowly defined uses
City of Kamloops	I1 – Light Industrial	Light Industry use class and narrowly defined uses
City of Surrey	IL-1 – Light Impact Industrial 1 Zone	Light Impact Industry use class and other use classes and narrowly defined uses
City of Maple Ridge	M-2 General Industrial	Industrial use class, and narrowly defined uses

2.1. RECOMMENDED OPTION

Create a new “General Industrial” use class. This would create more flexibility within the Zoning Bylaw and avoids relying on an exclusionary approach where a long list of narrowly defined uses shows what specific uses are allowed and excludes all others. The drawback of the exclusionary approach is that if a new kind of industrial business use approaches the District for permission to operate in the I1 zone, the District may not be able to issue a permit under the existing list of specified uses. Whereas taking an inclusive approach, based on a broad definition of industrial activities, can be a more inclusive and therefore permissive philosophy. This type of inclusive approach is used in Surrey BC and Edmonton AB. It can be thought of as creating a “family of allowable uses” that offers the benefit of being future proofed to accommodate new and emerging or uses that were not considered when the bylaw was initially drafted and adopted. By using a broad general industrial use class, the District can apply a discretion as to whether a proposed industrial use fits within the spirit and intent of the general industrial use class.

Similar to the above we recommend creating an “Innovation Industrial” use class that can speak specifically to uses that rely on research and development, science, technology, engineering and mathematics (STEM) based activities. This would allow the District to consider these less intrusive uses within the I1 zone. Right now, the I1 zone features “Research Laboratory” and “Research and Development Facility” but these narrowly defined uses may not provide enough scope for full scale operations. Research Laboratory is defined as “the use of the premises for the provision of analytical research or testing services to other business.” This would not enable a research laboratory that produces its own proprietary outputs at scale, it is limited to testing and analysis services for other businesses.

The Research and Development Facility is defined as “the use of premises for carrying on investigation, research and development in science or technology, including information technology, biotechnology, and energy and environmental technologies, and may involve the design, processing, manufacture, storage and distribution of such technologies, including, but not limited to: electronics, electrical products; computer hardware, programming and software development; telecommunications’ systems including devices or similar equipment; precision engineering and robotics; pharmaceutical preparations or materials; medical devices; and, batteries and fuel cells.” This is fairly broad, but there could be limitations on full scale production of any of the technological or product outputs, since this definition is drafted to enable broad types of research but “may” involve the manufacture, storage and distribution of the technologies. If challenged, the definition indicates that the primary intent of the facility is prototyping and testing, which is a secondary emphasis on full scale production.

Finally, there is also an opportunity to remove non-industrial uses such as travel agent and fitness centre, if desired, to preserve opportunity for industrial and service-industrial uses. In the sections below we provide the specific findings of the jurisdictional scan related to industrial uses in the 10 municipalities covered in the analysis.

2.1.1. City of Langford

“Industrial use, light” means the use of land, buildings and structures for processing, fabricating, assembling, manufacturing, storing, distributing, testing, cleaning, servicing, repairing, wrecking or

salvaging of goods other than automobiles, materials or equipment and the use of land for accessory unenclosed storage associated with such uses. This use does not include:

9. Any outdoor assembling, manufacturing, wrecking, testing, servicing or uses other than accessory unenclosed storage;
10. The use, storage or production of volatile materials that constitute a risk to health, safety or property due to the potential of fire, explosion or accidental release of toxic fumes, gases or other substances;
11. Any use that generates heavy truck traffic or fumes, dust, smoke, light, vibration, noise, odours, heavy truck traffic or other impacts that extend beyond the boundary of the lot on which the use is located;
12. The primary processing of meat, poultry or fish or the involvement of live animals in any aspect of the operation;
13. The primary processing of wood, metals or chemicals; or
14. Gravel processing, garbage dumps sawmills, planer mills, fertilizer plants, oil refineries or bulk oil storage plants.

This use may include accessory administrative office, retail sales and distribution uses. Typical light industrial uses include, but are not limited to: contractor services, food and beverage processing and packaging, recycling facilities, wholesaling and warehouse storage.

2.1.2. Township of Langley

"GENERAL INDUSTRIAL USE" means the general manufacture, assembly, repair, finishing, packaging and storage of products. Excludes heavy industrial and similar uses specifically permitted in the Heavy Industrial Zone M-3, the Heavy Industrial Zone M-4, and wrecking and salvaging yards and all industrial uses deemed as being reviewable in the Reviewable Projects Regulation as amended pursuant to the Environmental Assessment Act as amended.

2.1.3. City of Abbotsford

List of narrowly defined uses:

- Principal Uses .1 Animal Shelter .2 Auction .3 Automobile Body Shop .4 Automobile Repair .5 Automobile Storage Yard .6 Brewery .7 Brewing and Vinting Outlet .8 Building Supply .9 Bus Depot .10 Commercial Vehicle Parking .11 Commercial Vehicle Repair .12 Commercial Vehicle Sales/Leasing .13 Commercial Vehicle Stop .14 Courier and Delivery .15 Crematorium .16 Dangerous Goods Manufacturing/Warehousing .17 Data Centre .18 Farm and Industrial Equipment Sales/Leasing/Repair .19 Freight Handling Facility .20 Indoor Recreation Facility .21 Landscape Supply .22 Manufacturing .23 Microbrewery .24 Self Storage (B/L 3249-2022) .25 Mobile Food Vendor .26 Motor Vehicle Recycling and Salvage Yard (B/L 3470-2023) .27 Printing Services .28 Recreational Vehicle Sales/Leasing/Repair/Rental .29 Recycling Depot .30 Research and Development .31 Restaurant .32 Trade School .33 Warehousing .34 Waste Transfer Station

2.1.4. Powell River:

"INDUSTRIAL USE" means an industrial activity and/or use providing for the generation, manufacturing, processing, assembling, fabricating, testing, servicing, repair, storing, growing, raising, transporting, warehousing, or distributing of goods or materials or things with or without an ancillary office to administer the industrial use on the lot, and includes wholesaling provided that the merchandise being sold is distributed from the lot. Food processing is permitted only when carried out entirely within an enclosed building and does not generate malodours that may be identified in any residential area in the City.

2.1.5. City of Kamloops

"GENERAL INDUSTRIAL USE" means the general manufacture, assembly, repair, finishing, packaging and storage of products. Excludes heavy industrial and similar uses specifically permitted in the Heavy Industrial Zone M-3, the Heavy Industrial Zone M-4, and wrecking and salvaging yards and all industrial uses deemed as being reviewable in the Reviewable Projects Regulation as amended pursuant to the Environmental Assessment Act as amended.

2.1.6. City of Courtney

"manufacturing" means those operations which are a necessary part of and clearly related to the production of articles and goods, including the repairing of articles and retail and wholesale sales provided the merchandise being sold is distributed from the lot.

2.1.7. The City of Delta

means the manufacturing, processing, testing, assembling, finishing or packaging of goods or materials that:

- a. takes place entirely inside a building,
- b. does not cause glare, sound or vibration impact that exceeds the maximum amount set out in Section 6.1.5, and
- c. is not offensive to the neighbouring areas by reason of smoke, dust or other airborne particles, odour, heat, or electrical or electronic interference,

but excluding any cannabis production, cannabis research and development, hazardous waste facility, household hazardous waste facility, solid waste facility, fat or oil rendering or refining, fish processing, leather tanning, natural gas or oil production, and processing of radioactive materials.

2.1.8. Surrey – Zoning Bylaw

"Industry - Light Impact" (BL 12333; 13916) means an industrial use which is enclosed within a building and is not offensive by reason of smoke, vibration, smell, toxic fumes, electrical or electronic interference and produces no significant noise which in any way interferes with the use of any contiguous lot, but excludes salvage industry.

"Industrial use" means the manufacturing, processing, assembling, fabricating, testing, servicing or repairing of goods or materials including wholesale of products manufactured or processed on the lot.

2.1.9. City of Maple Ridge

“INDUSTRIAL” means a use providing for the: processing; fabricating; assembling; storage; transporting; distributing; testing; servicing; repairing; wrecking and salvaging of goods, materials or things; and the selling of heavy Industrial equipment. Includes, but is not limited to: assembly, repair, finishing and packaging of products; operation of truck terminals; docks; railways; bulk loading; and Warehouses.

2.1.10. Edmonton – Zoning Bylaw

Edmonton has replaced its Zoning Bylaw 12800 with an entirely new Zoning Bylaw 20001. The old zoning bylaw introduced the concept of a General Industrial Use class that worked well providing flexibility and future proofing the bylaw to emerging and shifting types of industrial businesses. The new Zoning Bylaw takes this approach further where all uses are grouped into very broad categories. It rests with the Development Officer to identify the category that the use would fall into.

“Minor Industrial” means a development used primarily for 1 or more of the following activities:

- processing raw materials;
- manufacturing, cleaning, servicing, repairing or testing materials, goods and equipment;
- handling, storing, or shipping equipment, goods, and materials;
- training, research and development laboratories; or
- distributing and selling materials, goods and equipment to institutions and industrial and commercial businesses.

Any resulting Nuisance is less impactful than those permitted under the Major Industrial Use.

Typical examples include auto body repair and paint shops, Cannabis Production and Distribution, commercial recycling depots, contractor and construction services, equipment or vehicle repair and storage facilities, laboratories, landscaping centres, limo service, materials storage, research facilities, taxi service, truck yard, vehicle (truck, aircraft, mobile homes, etc.) and equipment sales and rentals, and warehouses.

“Major Industrial” means a development used primarily for 1 or more of the following activities:

- processing raw materials;
- manufacturing, cleaning, servicing, repairing or testing materials, goods and equipment;
- handling, storing, or shipping equipment, goods, and materials;
- training, research and development laboratories; or
- distributing and selling materials, goods and equipment to institutions and industrial and commercial businesses.

A **Major Industrial Use** includes at least 1 of the following features:

- the creation of Nuisances that extend beyond the boundaries of the Site and that may have a harmful effect on other Sites due to noise, odour, light, airborne emissions, dust, heavy commercial vehicle traffic, or any other harmful effect created by a Nuisance; or the use of

materials or processing operations that require separation from other developments, due to risk of toxic emissions or fire and explosion hazards.

Typical examples include chemical plants, land treatment facilities, metal factories, and petroleum refineries.

Outdoor Sales and Service means a development where sales and service activities take place primarily outdoors. This may include outdoor storage or display. These activities may create minor Nuisances.

Typical examples include automotive and minor recreation vehicle (with a gross vehicle weight rating (GVWR) of less than 4600 kg) sales and rentals, and plant nurseries.

Vehicle Support Service means a development where the primary activity is vehicle servicing operations for the repair, maintenance, or fuelling of automobiles and other vehicles with a gross vehicle weight rating (GVWR) of less than 4,600 kg.

Typical examples include fuel stations, car washes, and vehicle repair shops, such as transmission, muffler, tire, automotive glass, and upholstery shops. This Use does not include auto body repair and paint shops.

With an approach similar to the above jurisdictions, the District of Central Saanich could regulate uses in the I1 zone with a short list of 4 or 5 use classes and exclude specific activities that are not desirable. These use classes would offer flexibility over the long term allowing the District to introduce a range of potential uses, without having to create narrow definitions for new uses.

2.1.11. Keating Business District Implementation Plan – P5 recommendations

The KBD Implementation Plan prepared by Stantec in March 2017, provided the District with a range of potential actions for improving the zoning bylaw and its ability to support broader uses and density. These actions were contained in a section called Implementation Tables, table P5 recommended actions included:

- Adding the following uses to the I1 Zone: Agricultural Related Industries use class to the Zoning Bylaw which would include
 - A. Husbandry services
 - B. Bulk sales outlet dealing primarily in farm-related goods and supplies
 - C. Custom machinery operators
 - D. Farm implement establishment
 - E. Farm supplies dealership
 - F. Grain drying
 - G. Greenhouse
 - H. Retail store engaged in the sale of farm produce or landscaping and garden supplies
 - I. Seed cleaning plants
 - J. Agricultural warehousing and storage
 - K. Fish and seafood processing industries

- L. Peat moss packaging
- M. Small-scale wind turbines
- N. Hi tech agricultural manufacturing
- O. Food and crop research facilities
- P. Medical marijuana facilities

Density bonus recommendations were also made, which focused on offering an additional 0.5 FAR in exchange for amenity provisions in the form of:

- Streetscape improvements
- Affordable housing
- Recreational amenities

2.1.12. Density Bonus Considerations

Density bonus recommendations were also made, which focused on offering an additional 1.0 FAR of office space in the I1 zone if the main floor is developed to the full 1.0 FAR with industrial uses – excluding office space. To do this effectively, new density bonus provisions would need to be drafted and inserted into the zone that specify the nature of the desired industrial uses – because some permitted uses include “Business Offices, but excluding Financial Institution, Medical/Dental Office. Additional Permitted uses include “Realty Office, Insurance Office, and Travel Agency” and “Offices” are a Permitted Accessory Use. The density bonus provision should specify the required industrial uses at grade, and potentially above grade, that qualify for the office related density bonus.

3. Building Height in the I1 – Light Industrial Zone

Many jurisdictions are finding that height limitations in industrial zoning may need to be increased. Industrial development and uses are increasingly going vertical. Verticality is being driven by automation and robotics innovations in the racking systems in warehousing, logistics and distribution combined with high land costs and limited land capacity/availability. Verticality increased the efficiency factor of the development on a square foot basis.

A recent example in Surrey BC located at 10895 Scott Road is a cold storage/frozen food distribution centre being built to a height of 15.7m to enable taller storage racking capacity. The allowable height in Surrey's IL-1 zone is 18m. TCD Transcold is the end user of the site; a similar user would make sense in a KBD location given it's strategic positioning in the CRD.

3.1. JURISDICTIONAL SCAN

A jurisdictional scan of the height limits in other jurisdictions identified by District staff and McElhanney reveals that the District of Central Saanich has the lowest allowable building height. Table 3 below presents the range of heights used in comparable jurisdictions.

Table 5. Industrial Height Comparison

Jurisdiction	Zone	Height
<i>District of Central Saanich</i>	<i>I1 – Light Industrial</i>	<i>11m</i>
City of Langford	M1 – Light Industrial	12m
Township of Langley	M-1A and M1-B Service Industrial Zones	12m (M1-A) 12m (M1-B)
City of Abbotsford	I2 – General Industrial Zone	12.2m
City of Powell River	M1 – General Industrial	13.5m
Town of Sidney	M1 – Industrial	15m
City of Courtenay	I-1 – Industrial One Zone	15m
City of Delta	I1 – Low Impact Industrial Zone	15m
City of Kamloops	I1 – Light Industrial	16m (building height) 18m (structure height)
City of Surrey	IL-1 – Light Impact Industrial 1 Zone	18m
City of Maple Ridge	M-2 General Industrial	18m

3.2. RECOMMENDATION

Our recommendations for the District of Central Saanich includes the following:

Increase allowable height in the zone to a maximum of 15m.

This would future proof the I1 District so that it could accommodate high efficiency warehouse and distribution industry as well as being able to facilitate stacked industrial should the business case make sense in the future as land scarcity drives up overall value of intensified industrial development.

Appendix A

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Statement of Limitations

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This construction cost estimate [and construction schedule] has [have] been prepared using the design and technical information currently available, and without the benefit of [Survey,] [Geotechnical,] [Environmental,] [Other – specify] information. Furthermore, McElhanney cannot predict the competitive environment, weather or other unforeseen conditions that will prevail at the time that contractors will prepare their bids. The cost estimate [and construction schedule] is [are] therefore subject to factors over which McElhanney has no control, and McElhanney does not guarantee or warrant the accuracy of such estimate[s]



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