British Columbia/Yukon Command

Real Property Development & New Construction Handbook

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Overview

This handbook provides a high level overview of key considerations and steps involved in property development for Legion branches. This resource can help support branches in making informed decisions, maximizing their property's potential, and ensuring long-term sustainability for the Legion and its communities.

Keep in mind that all details in this document are subject to change, and it's crucial for Branches to work closely with their Branch Operations Advisor and consult professionals throughout the project.

Initial Steps

What is the best development option for the branch?

- Subdivide land and sell portion to raise capital.
- Sell land to a developer who will build a new turn-key Legion as part of an affordable housing project. – Strata or Airspace?
- Sell land to a developer who will build a new Legion plus a certain number of rental units that will provide ongoing revenues for the branch. (This depends on the value of the Legion land i.e., $2,000,000, and up that would provide adequate equity.
- Sell land and relocate the Legion to a leasehold or smaller building.
- Self-financed renovation or redevelopment project.

Considerations when looking at the options:

1. What is the reason for considering redevelopment?
2. What are the immediate needs of the Legion?
3. What is your "end goal"?
4. What would the benefit be for redevelopment?
5. Does the branch require immediate capital?
6. How would the redevelopment provide revenue within the first 3 years?
7. Does the branch want a regular revenue stream?
8. Does the branch want a legacy project? – No cash flow for 30 yrs.
9. Does the branch want a new facility?
10. What is the current zoning for your property? Will rezoning be necessary?

Possible risks to consider

- Will the branch have to close during redevelopment and are you able to endure a closure of up to two years during construction?

- Is the membership of the Branch able to commit to the project through the construction phase and ensure the establishment of a building committee that will oversee the project in the long term (2 ½ plus years)?
- Will involvement in the project have a positive, neutral, or negative impact on the current operations of the Branch?
- Will the Legion involvement jeopardize the "non-profit" status of the Legion? Legions cannot participate in a joint venture agreement whereby they are perceived as a for-profit company. (Please reach out to your BOA or Command Office for more information.)

Property Development Committee

An initial step would be to set up a Property Development Committee. The Branch should take into consideration the expertise and interest of its members when establishing a Property Development Committee. Expertise in financial issues should be a requirement. Potential members can either be Branch members or outside experts. It is stressed that legal advice may also have to be considered and there is always a cost for such expertise. It is also very important to avoid any conflict of interest for individuals that are on the committee.

Viability & Sustainability Study + Analysis

The first step in a development should be a viability and sustainability study. A comprehensive viability and sustainability study should start with a Project Cost Analysis. This analysis should cover not only the construction stage but should also assess operating costs and revenues.

Preparatory planning costs, which can run as high as $50,000 dollars, may be substantial and may not be recoverable. The Branch may need to carry out a market analysis. It might be necessary to conduct a survey to identify needs in the target area (this might be readily available from a development consultant).

The viability analysis would also address what type of housing is required to meet the local needs, what is the "Market rent" (average going rent in the area), what services should be provided, at what cost, etc. At a minimum, when identifying the building site, the zoning requirements must be identified.

Project Cost Analysis

As a follow up to the viability and sustainability study, an updated cost analysis should be carried out by a professional quantity surveyor. This should be done in two stages:
Stage 1: should be undertaken at the conceptual design stage, assuming that some assumptions are made in regard to basic construction material types, mechanical electrical components, etc.

Stage 2: should be undertaken when the working drawings are 50% complete. By this time, structural/mechanical/electrical/civil engineers would be able to provide up to date construction details. Also included in the second stage should be all the associated soft costs of the development. These may include a list of components shown below:

- Land cost
- Development costs
- Re-zoning fees
- Development permit fees
- Structural engineer
- Electrical engineer
- Mechanical engineer
- Civil engineer
- Development cost levies
- Sewers/water/roads
- Infrastructure
- Community contributions
- Parks, amenities, etc.
- Consultant fees
- Architect
- Environmental engineer
- Geo technical engineer
- Surveyor legal/topographical
- Landscape architect
- Sprinkler engineer
- Other municipal levies
- Building permit fees
- Engineering fees
- City building grade fees
- Property taxes

In each case, before construction can be considered, it is necessary to:

- Determine if the land is properly zoned, or if the zoning will need to be changed or varied;
- Re-zoning of property is a public process and there will be mandatory steps and timeframes to follow. Re-zoning or request for variances could take between 6 -9 months and there will be costs associated with the re-zoning process;
- In applying for re-zoning, one should wait for a decision from the municipality before incurring costs for a quantity survey, a Phase 1 environmental assessment, landscape architecture evaluation;
- When a branch is considering subdividing its own property, it should consider the value of the severed lot before going ahead as well as determining any restrictions which may be imposed by a conservation authority;
- An environmental assessment may be required. In most cases, there will likely be the requirement to carry out a Phase 1 environmental assessment. This involves a visual inspection of the property. In some circumstances, if a Phase1 assessment had been done previously and there has been no change of use since the previous assessment, it may not be necessary to have a new Phase 1 assessment completed. If there are indications during the Phase 1 assessment that the property may have some environmental issues, it may be necessary to have a Phase 2 assessment completed. A Phase 1 assessment normally can be completed in 2 - 3 weeks, while a Phase 2 assessment would take considerably longer and be much more expensive.
- Soil analysis. Depending on the site location and local requirements, it may be necessary to conduct a soil analysis to determine if the load-bearing capacity of the land is

sufficient for the planned project. Depending on the results of this study, the project size, shape, etc. may need to be altered.

- Site assessments. This requirement is normally carried out by an architect and/or engineer and involves determining how a development may be situated on a site to meet the project needs and to also accommodate municipal by-laws and relevant Provincial or Federal Regulations. Again, the site assessment could result in changes being made to the project plan.
- Surveys - Site Plans. As part of the site analysis, it is usually necessary to have certain plans prepared such as boundary surveys, topographical maps, etc.

All the work identified so far is "pre-development planning" and it is work that needs to be done before a final decision can even be taken on whether or not project construction is possible.

At this stage pro-formas and cost projections and analyses may not have been prepared, but the Branch will have incurred the costs associated with the pre-planning work. Depending on the size and location of the project, these costs could range from $10,000 - $50,000. Branches should be aware that these costs will be incurred when housing developments are being planned, and arrangements will need to be made to ensure that these costs can be paid.

Develop Pro-Formas

Now that the need has been established, the site decided upon and the kind of facility determined, the next step is to develop pro-formas to determine if the project is financially viable. It will also be necessary to have pro-formas in place in order to get project financing.

There will be a need for two types of Pro-Formas:

- Construction Cost Analysis; and
- Income/operating expenses.

A sample Construction Pro Forma can be found in Appendix B.

BC Builds

BC Builds is a housing program, delivered by BC Housing, to speed up the development of new homes for middle-income working people throughout British Columbia. Today, the development of new housing is impacted by the cost of land, the cost of construction, and high interest rates. This can make financing and building new rental housing challenging. BC Builds uses low-cost land, low-interest financing, grants, and speeds up project timelines to reduce how long it takes to get a building from concept to construction.

More information can be found on their website: https://www.bcbuildshomes.ca/

Residential Developers & Non-profit Housing Operators

BC Builds offers low-interest repayable loans for new residential rental developments. To make projects viable and deliver some below market units, BC Builds can provide grants to non-profits, co-ops, public housing corporations and First Nations entities to achieve at least 20% of the units at 20% below market. This up front investment means BC Builds buildings will operate without an ongoing subsidy from government.

For non-profits that want to submit proposals to own and operate buildings, please team up with a developer/builder (for profit or non-profit) to submit a proposal. BC Builds is not seeking proposals for building operators only.

Successful projects must break ground within 12 -18 months (depending on the complexity of the project) from the signing of a **Conditional Land Contribution (CLC)** letter following the selection of a successful proponent.

Whether the land remains in the name of the contributor after a Conditional Land Contribution Letter depends on the specific terms outlined in the agreement. There are two common scenarios:

How It Works in the Context of BC Builds

For BC Builds specifically, the terms regarding land ownership would be detailed in the CLC letter. If the program is structured around partnerships, the land may:

- Be transferred outright to the government or project developer.
- Remain in the contributor's name under specific conditions (e.g., long-term leases or covenants ensuring the land is used for housing purposes).

If you're considering contributing land or are part of such a project, it is important to:

- Carefully review the CLC letter and associated agreements.
- Consult a lawyer or real estate professional to understand the implications for ownership, tax, and long-term rights.

A Conditional Land Contribution letter is typically a formal document used in the context of real estate, development projects, or community housing initiatives. It outlines the conditions under which a party, such as a land owner or developer, agrees to contribute a piece of land to a project. This letter is often required to confirm a commitment while also detailing the specific terms and contingencies that must be met for the contribution to be finalized.

Documentation of Intent: It formalizes the intent of the landowner or stakeholder to contribute land to a housing or development project. (would be subject to successful rezoning.)

Legions, on their own, do not have the financial ability or previous property development and property management experience that is required to proceed with a BC Builds housing initiative. They would be required to partner with a Developer that is willing to remain invested in a rental housing project which might be hard to find.

One format that could potentially be successful for a Legion would be the outright sale of their land to a developer with an agreement to receive a turn-key Legion as part of the total purchase valuation.

Sample Letter of Intent

A template Letter of Intent for the sale of property or the construction of a new Legion can be found in Appendix A. Feel free to use and adapt accordingly.

Mixed-Use Developments: Air Space vs. Strata

A growing number of developments are combining both commercial and residential space within the same building – there may be grocery stores, restaurants and offices on the lower levels of a building, and several floors of residential apartments directly above them. With this sort of combination, a typical concern is how the commercial space can keep its autonomy from the residential portion of the building, while matters of mutual concern can still be addressed.

There are two main methods by which developers may organize a mixed use building to ensure that there is separation between its residential and commercial components. One is through the use of air space subdivision, while the other is through the creation of separate sections within the same strata corporation.

Air Space Subdivision

Air space subdivision is becoming increasingly popular with developers, owners and mortgagees of mixed-use real estate projects. The main attraction of air space subdivision is that it creates two separate legal parcels within the same building. This means that different parties can own the residential and commercial components of the building, and as a result, air space subdivision provides more flexibility for long-term investment opportunities and use.

In a typical air space subdivision, a strata plan is filed only with respect to the residential portion of the building, so that it is only the residents in the building who are members of a strata corporation. With air space subdivision, the commercial portion of the building becomes a neighbor of the residential portion of the building, and is not subject to the residential strata corporation's by-laws, rules and resolutions. This will likely be attractive to an owner developer

who wishes to retain ownership of the commercial component of a building, but sell the strata lots in the residential portion. The marketability of the commercial portion will also be enhanced as most REITs, pension funds and other institutional investors will simply not consider purchasing strata-titled property.

With air space subdivision, the owner developer can operate the commercial space as it sees fit, and is not required to involve a strata corporation in its decision-making. In addition, the owner developer retains the flexibility to keep the commercial portion of a building for a period of time, or file a strata plan with respect to the commercial units, and then sell the commercial strata lots individually.

Air space subdivision is three-dimensional subdivision governed by Part 9 of the ***Land Title Act***. To create air space parcels, an air space subdivision plan is first prepared by a BC Land Surveyor. Usually, but not always, the plan is prepared once the building structure has been substantially completed. Once prepared, the plan is filed in the Land Title Office against an existing parcel of land to create titles to one or more three-dimensionally defined air space parcels plus a separate title for that portion of the original lands not included in the air space parcel(s), known as the "remainder" parcel.

Once the air space subdivision plan is accepted for registration in the Land Title Office, each air space parcel and the remainder parcel is given a separate title and is treated like any other parcel of land in BC – each can be transferred, leased, mortgaged, and otherwise dealt with like any other parcel of land. An air space parcel may be further subdivided in accordance with the *Strata Property Act*.

Having separate titles for the residential and commercial components of the building creates a number of practical benefits. The actual division of the residential and commercial elements often makes it easier to delineate cost allocation for non-shared building components. To address matters of mutual interest, and typically to comply with municipal and building code requirements, the developer, in its dual or multiple capacities as owner of the residential and commercial parcels, enters into an Air Space Multi-Easement Agreement in a form approved by the municipality. Among other things, the Agreement provides reciprocal easements between the owners for, as applicable, pedestrian access, vehicular access, service connections, fire safety and emergency systems, structural support, future construction, maintenance, repair and the use of other common building services, such as sewer, garbage, water and electrical services.

While having a number of benefits, the up-front costs of an air space subdivision involving surveyors, lawyers, building code specialists and other consultants can add tens of thousands of dollars in soft costs to a development. In Vancouver, developers must include fees currently ranging from $27,701 to $55,299 when submitting an air space subdivision proposal to the City for its review. Developers must consider the costs involved when deciding whether to separate residential and commercial components of a building through the use of air space subdivision or through separate sections within a strata corporation.

Examples of Vancouver projects in which a residential strata plan exists within a single air space parcel, with the commercial component in the remainder, include the Olive development (16th and Cambie) and L'Aria (Seymour and Robson). More complex, multiple air space parcel developments include Central City in Surrey and The Crystal in Burnaby, and Legion Veteran's Village in Surrey.

Separate Sections in a Strata Corporation

The alternative to separating commercial and residential components by way of air space subdivision is to create separate sections for the residential strata lots and commercial strata lots within a single strata corporation. In this scenario, the entire building is subdivided into strata lots (each with its own title) and common property, in accordance with the *Strata Property Act*. An owner developer may, in the strata corporation's bylaws, create separate sections under Part 11 of the *Strata Property Act* to ensure that the residential section and commercial section are each autonomous and self-governing in respect of matters that relate solely to such section. For matters that relate to all owners in the strata corporation, the sections may have representation on the strata council.

After creating sections, a strata corporation retains its powers and duties in matters of common interest to all owners. With respect to matters that relate solely to the section, each section has the same powers and duties of the strata corporation, and functions like its own separate strata corporation within the strata corporation. A section can be set up to hold its own elections, and can have an executive council that performs for the section the same functions that a strata council performs for the strata corporation. A section may remove, replace and appoint its own executive council members and members of the strata council.

The independence of a separate section affects virtually all financial and related matters. A section can create and approve of its own annual budget with its own operating fund and contingency reserve fund for common expenses of the section, including expenses relating to limited common property designated for the use of all of the strata lots in a separate section. A section may collect and administer its own strata fees, assess a special levy on all the strata lots in the section, and have its own trust accounts to manage its financial affairs independent of the strata corporation. A section is responsible for the repair and maintenance of limited common property designated for the exclusive use of strata lots in the section.

The strata corporation has an annual budget for expenditures that relate to and benefit all strata lots. Some of the expenditures that would benefit both the residential and commercial strata lot sections may be landscaping, insurance, and the parking structure costs. The function of the strata council is to deal only with matters of mutual concern. The strata corporation maintains an operating fund and a contingency reserve for these matters only.

A section is treated as a separate legal entity. A strata corporation has no liability for contracts made, or debts or legal costs incurred, by a section. A section may borrow money, grant security charging its interest(s) in land whether by mortgage or otherwise, and enter into contracts in its own name.

While the strata corporation's bylaws apply to each section, the bylaws can be amended by a section with respect to matters that relate solely to that section. A section may also adopt and enforce its own bylaws and rules. The strata corporation may not pass a bylaw or rule affecting a section unless the owners in the section also approve the bylaw or rule by a vote separate from the vote of the strata corporation. One section may not impose a bylaw or rule on another section.

Despite the relative degree of independence separate sections have, the use of separate sections will not help solve all conflicts between the residential and commercial components of the building. One issue that repeatedly arises where there is a commercial section of a building relates to the signage that is allowed on the exterior of the building. Under the *Strata Property Act*, the outside walls of the building are considered to be common property, and fall under the rules of the strata corporation rather than a separate section. However, the owners of commercial strata lots and the residents who live above this commercial space will likely have very different ideas about what kind of signage should be permitted. In this scenario, air space subdivision provides a better solution than dividing the building into sections.

There are a number of factors for developers to consider when deciding whether to separate residential and commercial components of a building through the use of air space subdivision or through separate sections within a strata corporation. When developing a mixed-use project, these factors must be considered at the outset in consultation with the developer's professional advisors to ensure that the desired structure is implemented effectively.

Appendix A

Sample Letter of Intent

[Legion Name]
[Address]
[City, Province, Postal Code]
[Email Address]
[Phone Number]

[Date]

[Recipient Name/Company Name]
[Recipient Address]
[City, Province, Postal Code]

Subject: Letter of Intent to Purchase Property at (subject property address)

Dear [Recipient Name],

This Letter of Intent (LOI) outlines the preliminary terms and conditions under which [Your Name/Your Company Name] (the "Purchaser") proposes to purchase the property located at (property address), British Columbia (the "Property") from Legion # xxx (British Columbia/Yukon Command) Branch of the Canadian Royal Legion (the "Vendor"). This LOI is intended to facilitate further discussions and is non-binding, except as expressly noted below.

1. Property Description
The Property is described as follows:

- Civic Address: (subject property address), BC
- Legal Description: Parcel Identifier 000-000-000, Lot 00 District Lot 000 Plan 00000

2. Purchase Price
The total purchase price for the Property will be **CAD $0,000,000** (the "Purchase Price"), subject to adjustments as agreed during the finalization of the purchase and sale agreement.

3. Terms of Payment
Payment of the Purchase Price will include:

1. The transfer **of 0,000 square feet** of **finished commercial space (the "Vendor's Space**") in the Purchaser's proposed development. Finished is defined as primed walls, flooring as specified by the Legion and all HVAC, electrical, mechanical, and plumbing installed.
2. Allocation of parking spaces required for the Vendor's Space per applicable municipal regulations.
3. An additional cash contribution **of CAD $000.00** per square foot for the Vendor's Space and any agreed-upon additional space.

4. Due Diligence
The Purchaser's obligation to complete the purchase is conditional upon:

- Approval of zoning and development requirements by the (municipal or district authority).
- Completion of environmental, engineering, and economic feasibility assessments.
- Satisfaction of all conditions outlined in the definitive purchase and sale agreement.

5. Development
The Purchaser intends to redevelop the Property into a mixed-use residential and commercial building. The development will include space for the Vendor's use as specified in the purchase agreement.

6. Closing Date
The proposed closing date for the transaction is [Closing Date], subject to the fulfillment of the conditions precedent and mutual agreement between the parties.

7. Non-Binding Nature
This LOI is a preliminary document and is not intended to create binding legal obligations, except for the confidentiality clause and any other provisions explicitly stated as binding. A formal purchase and sale agreement will be executed to finalize the terms.

8. Next Steps
Upon agreement to the terms outlined in this LOI, the Purchaser and Vendor will engage in good faith negotiations to draft and execute a definitive agreement reflecting these terms and any additional provisions as mutually agreed.

We appreciate your consideration of this proposal and look forward to discussing it further. Please confirm your acceptance of the terms in principle by signing below.

Sincerely,
[Your Name]
[Your Title/Your Company Name]

Acknowledgment and Acceptance
I, [Vendor's Representative Name], as an authorized representative of Legion #000 (British Columbia/Yukon Command) Branch of the Canadian Royal Legion, acknowledge receipt of this Letter of Intent and agree to proceed with discussions based on the terms outlined herein.

Vendor's Representative Signature
[Date]

Purchaser's Representative Signature
[Date]

Appendix B

Construction Pro Forma

APPRAISALS/STUDIES	BUDGET	ACTUAL
Appraisal		
Market Rent Appraisal		
GST Appraisal		
Market/Feas Study		
Need & Demand Assessment		
Traffic Study		
Total Appraisals/Studies		
Land Value		
Offsite Service Costs		
Environmental Remediation		
Property Transfer Tax		
PTT - Purchase		
PTT - Lease		
Demolition		
Mortgage Buy-out		
Total Acquisition and Servicing		
MUNICIPAL FEES		
Municipal Fees		
Building Permit		
Development Cost Charges		
Regional Dev'ment Cost		

OCP/Rezoning Appl.		
Subdivision Appl.		
Mun. Connection Fee		
Building Grade		
Development Permit		
Total Municipal Fees		
UTILITY FEES		
Gas Connection Fees		
Hydro Connection Fees		
Cable Connection Fees		
Telephone Connection Fees		
Total Utility Fees		
DESIGN CONSULTANTS		
Architect Contract		
Cost Type		
CHF Residential Component		
Non-CHF Residential and Non-		
Residential Components		
Arch. Cont. Sub-Consu		
Arch. Cont. Fees		
Arch. Cont. Disb.		
Structural		
Electrical		
Mechanical		
	BUDGET	**ACTUAL**

Landscape		
Building Envelope		
Code Consultant		
Civil Consultant		
Certified Professional		
Security Consultant		
Acoustic		
Kitchen Consultant		
Interior Designer		
LEED Consultant		
Misc Design Consultant Costs		
Total Design Consultants		
CONSULTANTS		
Development Consultant		
Dev. Consult. Fees		
Development Consult. Disbursements		
Dev. Consult. Extraordinary Travel		
Geotechnical		
Surveyor		
Topographical Surveyor		
Cost Consultant		
Environmental Consultant		
Hazardous Materials Consultant		
Arborist		

Service Delivery Consultant		
Fire Safety Plan		
Maintenance & Renewal Plan		
BC Housing Inspector		
BCH Inspector Fees		
BCH Inspector Disbursements		
Community Consultant		
Miscellaneous Consultants		
MISCELLANEOUS SOFT COST		
Property Taxes pre IAD - INITIAL APPROVAL DATE		
Utilities pre IAD		
Course of Const. Insurance		
Professional E&O Insurance		
Society Org. Costs		
Society Legal Fees		
BC Housing Legal Fees		
BCH Program Sign		
BCH Recoverable Costs		
Maintenance Costs		
Title Fees		
Security pre-construction		
GST - Self Supply		
	BUDGET	**ACTUAL**
GST - No rebate		

GST - Non Self Supply		
Tenant Relocation Costs		
Total Miscellaneous Soft Cost		
BORROWING COSTS		
Interest pre IAD		
Loan Admin Fee		
Mortgage Insurance Fee		
Loan Fee		
Total Borrowing Costs		
CONSTRUCTION		
Construction Contract 1		
Construction Manager		
Project Manager		
Construction Manager Disbursements		
Support/Service Delivery		
Construction Costs		
Documentation Cost		
Construction Contract 2		
Construction Contract 3		
Construction Contract 4		
Landscaping		
Unit appliances		
Common Laundry/kitchen		
Commercial Kitchen Appliances		

On-Site Security		
Building Warranty		
Total Construction		
BUILDING START-UP/COMMISSIONING		
Project Commissioning		
Vacancy Loss		
Marketing		
Common Dining/Furnishings		
Office Equipment		
Maintenance Equipment		
Support Serv Equip/Sup		
CONTINGENCIES		
Project Contingency		
Design Contingency		
Schedule Contingency		
Construction Contingency		
Escalation Contingency		