

<u>COUNCIL AGENDA</u>	
Date: February 21, 2023	Item: 4.



DISTRICT OF WEST VANCOUVER
750 17TH STREET, WEST VANCOUVER BC V7V 3T3

COUNCIL REPORT

Date:	February 8, 2023
From:	Maeve Bermingham, Community Planner
Subject:	Addressing Expiring Caulfeild Land Use Contract
File:	13-2515-01

RECOMMENDATION

THAT staff be directed to prepare draft bylaw amendments to provide consistent land use regulations that will apply to lands currently subject to the expiring Caulfeild Land Use Contract.

1.0 Purpose

To present the Caulfeild Land Use Contract (LUC) technical review findings and seek direction to prepare updated draft bylaw amendments to avoid future legal non-conformities on impacted lands, upon LUC termination.

2.0 Legislation/Bylaw/Policy

Provincial Legislation

The *Local Government Act* requires all Land Use Contracts be terminated on June 30, 2024, in accordance with Section 547. Sections 545 to 550 further outline associated requirements with respect to the discharge and termination of the LUCs and the adoption of zoning bylaw(s) for the purpose of replacing the LUCs.

3.0 Council Strategic Objective(s)/Official Community Plan

Official Community Plan

The Official Community Plan (OCP) provides direction to address expiring LUCs by implementing replacement regulations for the lands affected in the following policy:

“2.1.22 Create new regulations prior to 2022 that replace expiring Land Use Contracts, meet community housing needs, and respond to neighbourhood context and character”.

4.0 Financial Implications

The existing budget covers the established Caulfeild LUC review process.

5.0 Background

5.1 Previous Decisions

Council, at its May 31, 2022, special meeting, passed the following resolutions to amend the zoning and associated regulations for 22 of the District's existing 23 LUCs (with the exception of Caulfeild):

THAT

1. Proposed "Zoning Bylaw No. 4662, 201, Amendment Bylaw No. 5201, 2022" be adopted; and
2. Proposed "Tree Bylaw No. 4892, 2016, Amendment Bylaw No. 5205, 2022" be adopted".

5.2 History

23 LUCs were exercised in the District between 1971 and 1978 as a form of site-specific, contractual arrangement between the local government and landowners. These contracts regulate development (e.g., density, site coverage, setbacks, heights, etc.) and were registered on land title. When LUC legislation was repealed in 1978, the existing contracts remained in place, however, no new contracts could be created.

In 2014, the Provincial Government amended the *Local Government Act* to terminate all existing LUCs on June 30, 2024. As a result, municipalities can either:

1. Adopt new underlying zoning bylaws that will apply to the impacted lands on June 30, 2024 (when LUCs are terminated) to maintain consistent land use regulations; or
2. Allow the LUCs to lapse without further action. The current underlying zones would then apply and any uses, buildings or structures that do not conform may be continued as legally non-conforming. However, if the non-conforming uses, buildings, or structures are discontinued for a continuous period of six months, any subsequent use of the land, building or other structure becomes subject to the regulations of the underlying zones.

To analyse and develop appropriate zoning for the District's LUCs staff worked with a planning consultant firm, Urban Systems ("the consultant"). On May 31, 2022, Council adopted bylaw amendments to address 22 of the original 23 LUCs to avoid future non-conformity and potential unintended changes to development rights. Due to the complex nature of Caulfeild LUC it was determined that the consultant would be retained to undertake a separate technical exercise to inform the preparation of replacement zoning for lands subject to Caulfeild LUC. The findings of this technical exercise are outlined below.

6.0 Analysis

6.1 Discussion

Caulfeild Land Use Contract Area

Caulfeild LUC, along with the other 22 LUCs in the District, is set to expire on June 30, 2024. Caulfeild LUC regulates a significant portion of the Caulfeild neighbourhood (including over 700 properties covering over 250 acres of land) and is unique as it facilitated long-term, area-wide development for the Caulfeild neighbourhood, with provisions for residential, commercial, institutional, and greenbelt areas. Each type of use, building, and structure led to a variety of different governing regulations within the LUC.

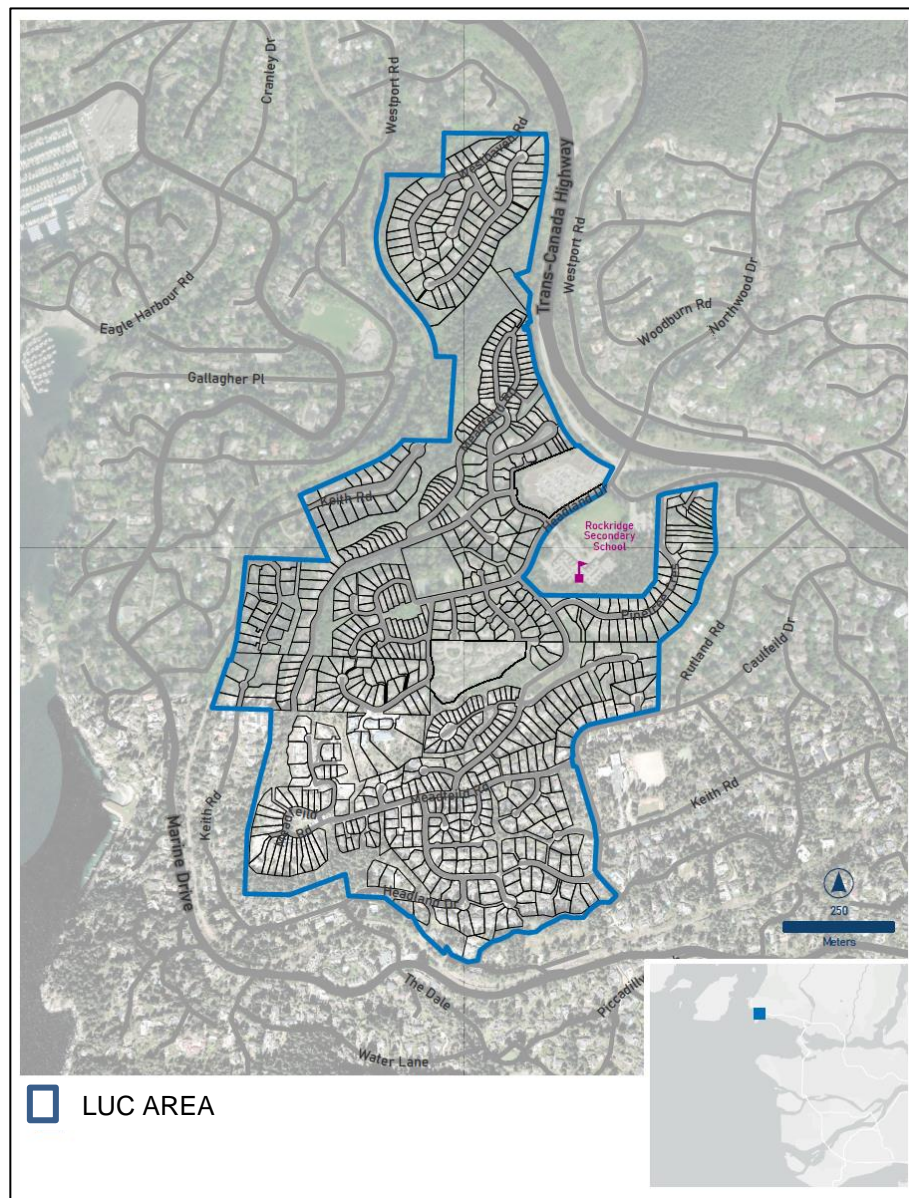


Figure 1. Caulfeild Land Use Contract Area

Technical Review: Summary of Non-Conformity Analysis

When the Land Use Contract expires in June 2024, the governing land use provisions for properties in the LUC will revert to the underlying zoning (i.e. RS2, RS3 and RS10). Given the unique provisions of the LUC, the existing buildings and uses will then not comply with the underlying zoning. As such, it is recommended that staff prepare updated draft bylaw amendments to avoid future legal non-conformities on impacted lands. The analysis focused on evaluating the floor area ratio (FAR) and site coverage regulations for each of the three underlying zones compared with the existing uses, buildings, and structures. It should be noted that additional non-conformities on the subject lands may exist pertaining to building height, setback, lot frontage, and lot size.

556 parcels were identified as non-conforming to these specific underlying zoning regulations, meaning that over 80% of all parcels include either FAR and/or site coverage non-conformities. This is visually represented in Figure 2. below. **Appendix A** provides a detailed overview of non-conformities by type (i.e., FAR and site coverage).

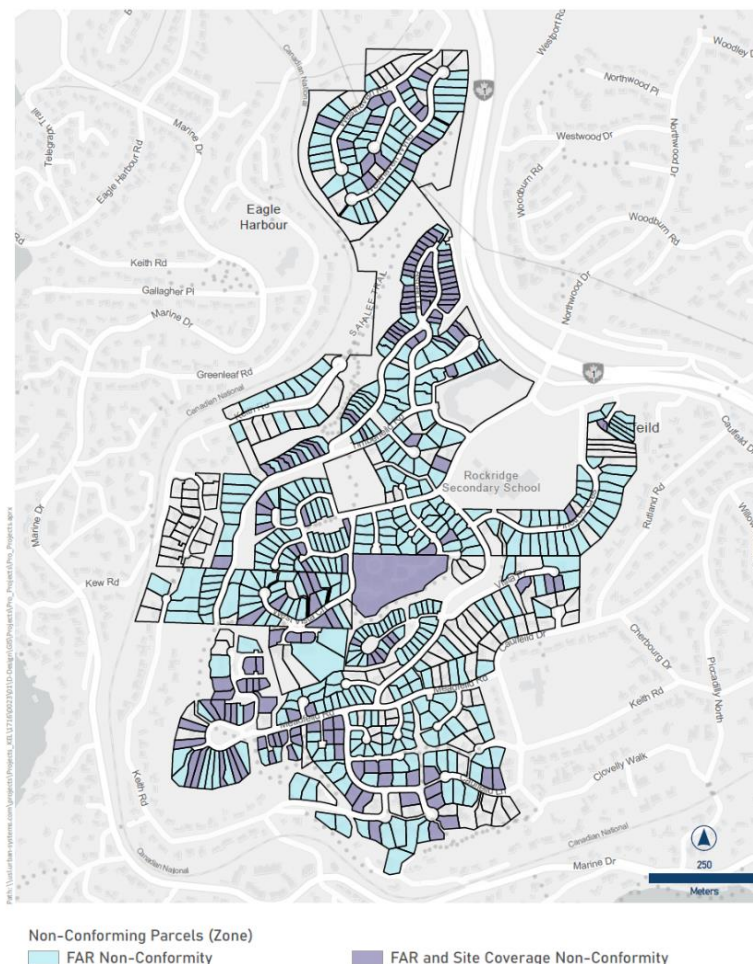


Figure 2: Parcels with FAR and/or site coverage non-conformities

Next Steps

Resolving these associated non-conformities will involve preparing updated draft bylaw amendments in accordance with the established budget and following next steps:

- retain the consultant to develop draft bylaw amendments for impacted lands, including associated educational and neighbourhood information materials;
- continue to utilize the dedicated webpage as the main portal for up-to-date and relevant information regarding the provincially-led process of LUC termination;
- release draft bylaw amendments for review and comment for a period of four weeks during 2023;
- provide up to two consultant-led neighbourhood information meetings, to be held during this period;
- integrate all feedback received and incorporate any updates; and
- bring forward proposed draft bylaw amendments for Council's consideration, prior to June 30, 2024, when the LUC expires.

The approach to preparing updated draft bylaw amendments is to provide:

- consistent land-use regulations with current LUC provisions;
- legal conformity for over 700 properties once the land use contracts expire;
- consistency with current bylaws and regulations; and
- opportunity for some flexibility (e.g., home-based businesses).

6.2 Sustainability

Resolution of legal non-conformities (resulting from the expiring LUC) would retain the neighbourhood-wide social, economic, and environmental sustainability responses currently provided for in the LUC.

6.3 Public Engagement and Outreach

Notification for LUC Termination

All property owners with land(s) currently under LUC were notified of the province's termination of their LUCs in June 2022, in accordance with Section 549 of the *Local Government Act*.

Results of Preliminary Input

Preliminary input received (since June 1, 2022), included ~20 telephone calls and emails from residents of lands subject to the Caulfeild LUC. Input (received to date) related to:

- educational questions and general points of procedural clarification;
- impact to landowners and next steps; and
- maintain and/or provide flexibility in development rights.

Dedicated Project Webpage

A dedicated webpage on the District's website has been created and will continue to provide information regarding the process of LUC termination and associated information.

Draft bylaw amendments and associated documents would be provided on this dedicated webpage. These would be available for review for a period of four weeks enabling residents to provide feedback and comments.

Neighbourhood Information Meetings

Residents would also have the opportunity to provide in-person feedback during one or two consultant-led neighbourhood information meetings. Feedback received would inform the preparation and finalization of the proposed bylaw amendments, to be brought forward for Council's consideration prior to June 30, 2024.

6.4 Other Communication, Consultation, and Research

Should Council direct staff to prepare draft bylaw amendments planning staff would consult with District staff from other departments as appropriate. A legal review of the proposed bylaw amendments would also be undertaken to ensure that the proposed bylaw amendments meet the requirements of the *Local Government Act*.

A public hearing must be held to consider zoning bylaw amendments (proposed to be brought forward prior to LUC termination). Statutory notice of a public hearing would be given in accordance with legislative requirements and District procedures.

7.0 Options

7.1 Recommended Option

That Council receive this report for information and direct staff to prepare draft bylaw amendments to provide consistent regulations for lands currently subject to the expiring Caulfeild LUC.

7.2 Considered Options

- a) allow the LUC to lapse without further action;
- b) request further information (to be specified); or
- c) provide alternative direction (to be specified).

8.0 Conclusion

The provincially-regulated termination of LUCs led to a technical review of legal non-conformities of lands subject to the expiring Caulfeild LUC. Staff recommend preparing updated draft bylaw amendments to avoid future non-conformity and to provide consistent land use regulations on impacted lands, upon LUC termination.

Author:



Maeve Bermingham, Community Planner

Concurrence:



Michelle McGuire,
Senior Manager of Current Planning and Urban Design



David Hawkins,
Senior Manager of Community Planning and Sustainability

Appendices:

Appendix A: Caulfeild Land Use Contract: Technical Review,
Urban Systems Ltd.

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URBAN SYSTEMS MEMORANDUM

DATE: February 8, 2023
 TO: Maeve Bermingham, District of West Vancouver
 CC: Michelle McGuire, District of West Vancouver
 FROM: Brittany Tuttle, RPP, MCIP
 FILE: 1716.0023.01
 SUBJECT: Caulfeild Land Use Contract Technical Review

1.0 INTRODUCTION

1.1 CONTEXT

The District of West Vancouver (the District) is in the process of undertaking technical analysis of the Caulfeild Land Use Contract (LUC) to determine what zoning changes are necessary to address the upcoming termination of the LUC. Land Use Contracts (LUCs) are agreements between municipalities and local landowners that regulate permitted uses and development regulations. In 2014, the Provincial Government amended the *Local Government Act* to terminate all existing LUCs. All LUCs will expire on June 30, 2024, at which point the lands will become subject to the regulation of the underlying zoning. In 2021, the District created zoning for all LUCs with the exception of Caulfeild. The Caulfeild LUC encompasses a total area of **257 acres (104 ha)** as shown in Figure 1 below and includes a variety of housing and land uses.

The LUC Area consists of the following three Residential Single Family Dwelling Zones: RS2, RS3, and RS10.

The purpose of this memorandum is to **identify which parcels may not conform to the existing Zoning regulations for each of the three zones applicable to Caulfeild and what non-conformities exist**. The non-conformity analysis focused on the **Floor-Area Ratio (FAR)** and **site coverage** regulations for each of the three zones. The analysis was based on existing available data including BC Assessment data to provide an estimate of each site's built floor area and the building footprint area to provide an estimate of site coverage. The summary table below outlines the number of non-conformities that exist in Caulfeild, with a total of 714 non-conformities existing amongst 689 parcels (see Table 1).

Table 1. Number of FAR and Site Coverage Non-Conformities.

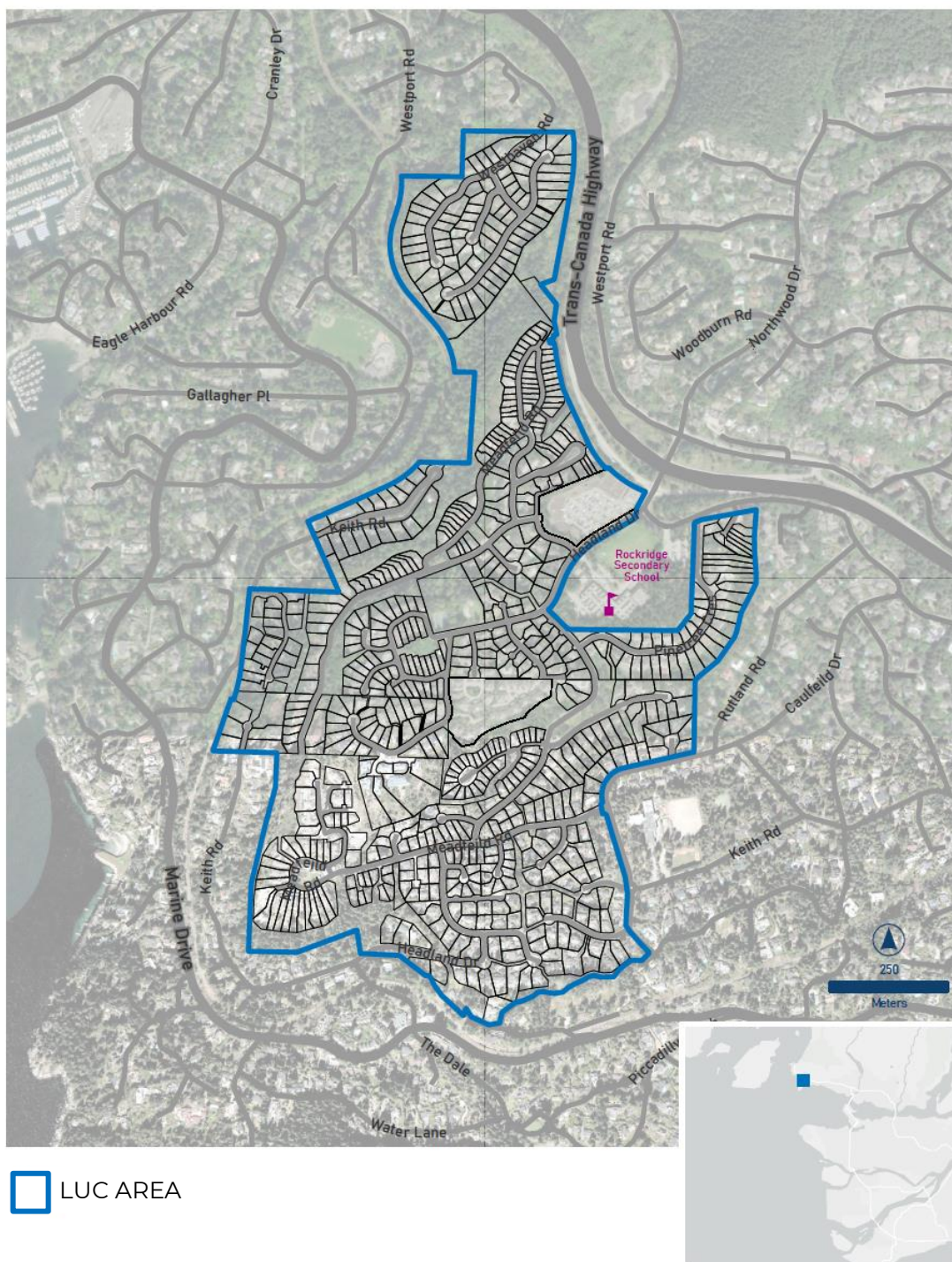
Regulations (Max. Permitted)		Number of Non-Conformities by Zone			Totals
		RS2	RS3	RS10	
Site Coverage	30%	3	2	38	43
	266 m ²	0	3	25	28
	40%	0	0	87	87
FAR	0.3	10	20	297	327
	204.4 m ²	1	0	185	186
	0.5	0	0	43	43
Totals (Non-Conformities)		14	25	675	714

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Figure 1. Caulfeild Land Use Contract Area.



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556 parcels in Caulfeild have non-conformities, with the breakdown as follows:

- Parcels with FAR non-conformities – 556
- Parcels with site coverage non-conformities – 159
- Parcels with both FAR and site coverage non-conformities - 159

This is visually represented in Figure 2.

It is important to note that because this analysis only focused on identifying non-conformities relating to FAR and site coverage, additional non-conformities in Caulfeild may exist pertaining to regulations for building height, setbacks, lot size, and lot frontage/width as these regulations were not included in the analysis due to:

- Lack of data available for building height – number of storeys has been used instead as a proxy for calculating FAR.
- Building plans for all parcels being required to determine building setbacks. This is better determined on a case-by-case basis as needed if redevelopment of a parcel were to occur; and
- Lot size and lot frontage being relevant for subdivision applications only, and not for typical redevelopment.

1.2 SPECIAL CONSIDERATIONS

A number of limitations exist that influenced the scope of this non-conformity analysis. These and other assumptions that were made in conducting this analysis are noted below and should be given consideration when reviewing the findings of this analysis.

- The existing commercial centre located at 5303 Headland Drive was excluded from this analysis. If directed to proceed with drafting updated zoning, the existing RS10 zoning for these lands would be intended to be replaced by a new appropriate commercial zone.
- School lands located within the Caulfeild area at 5350 Headland Drive were excluded from this analysis as these lands were transferred to the School District upon satisfactory completion of construction and at that time, were released and discharged from the Land Use Contract.
- Parcels where Civic Address data was stated as “null” in the export of data from BC Assessment were excluded from the analysis. “Null” statements imply that no data is available.
- Split-zoned parcels were assigned one, predominant zone for the purpose of the analysis. For example, if a lot had both RS10 and RS3 zoning, with 75% of the lot zoned as RS10 and 25% zoned as RS3, the RS10 zone was assigned to the parcel for the purposes of the analysis.
- FAR and site coverage calculations only include principal buildings due to data limitations regarding accessory buildings and structures.
- FAR and site coverage for parcels located in the strata development at 5110-5128 Alderfeild Place were calculated based on the building footprint for each individual strata and the area of the parent parcel. Parcel area data includes information such as roadways included as part of the strata development and therefore does not provide an accurate depiction of the parcel area that is allocated for the individual

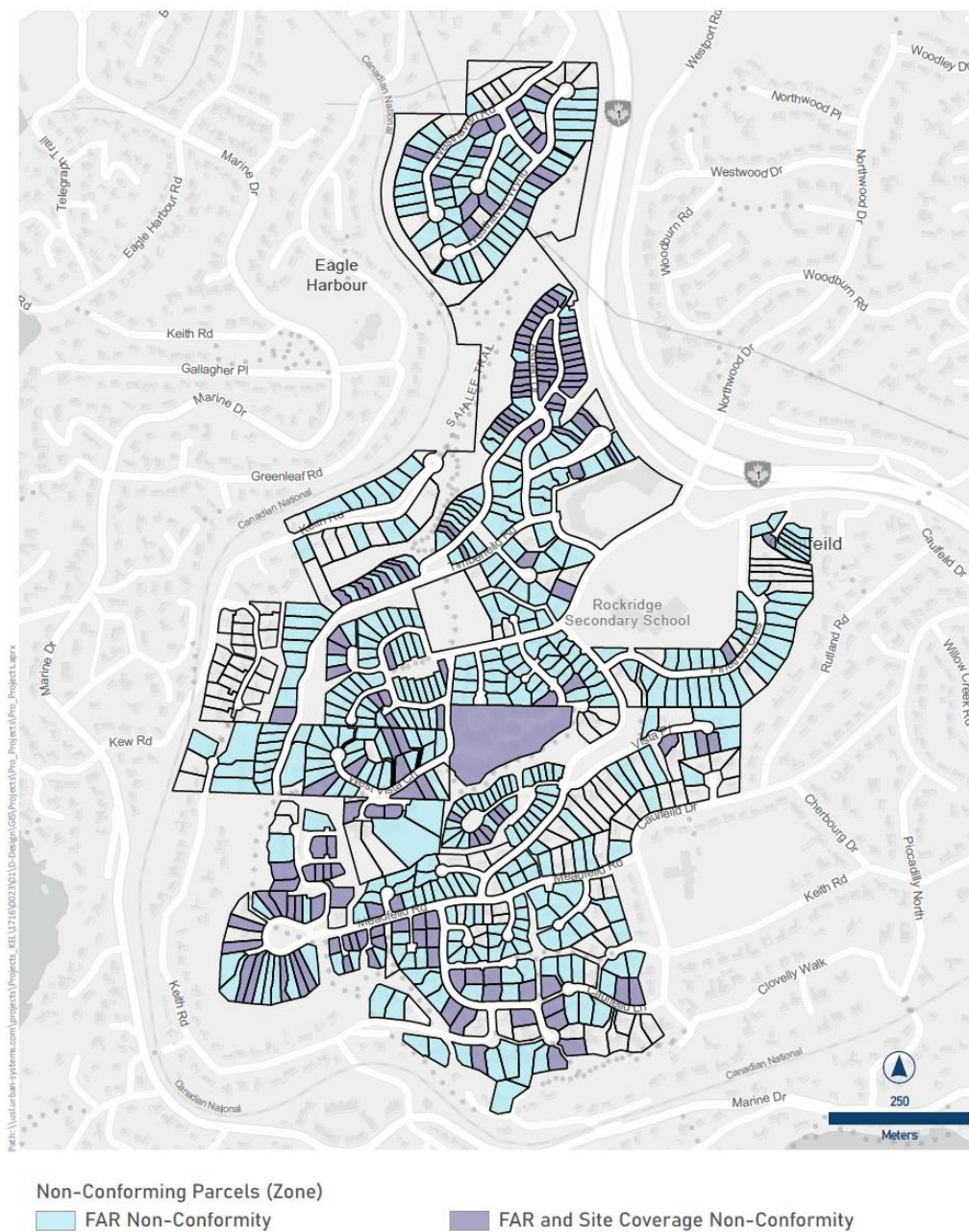
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strata lots. As such, these numbers are likely much lower than what is actually existing for FAR and site coverage of each strata parcel.

Figure 2. Parcels with FAR and/or Site Coverage Non-Conformities.



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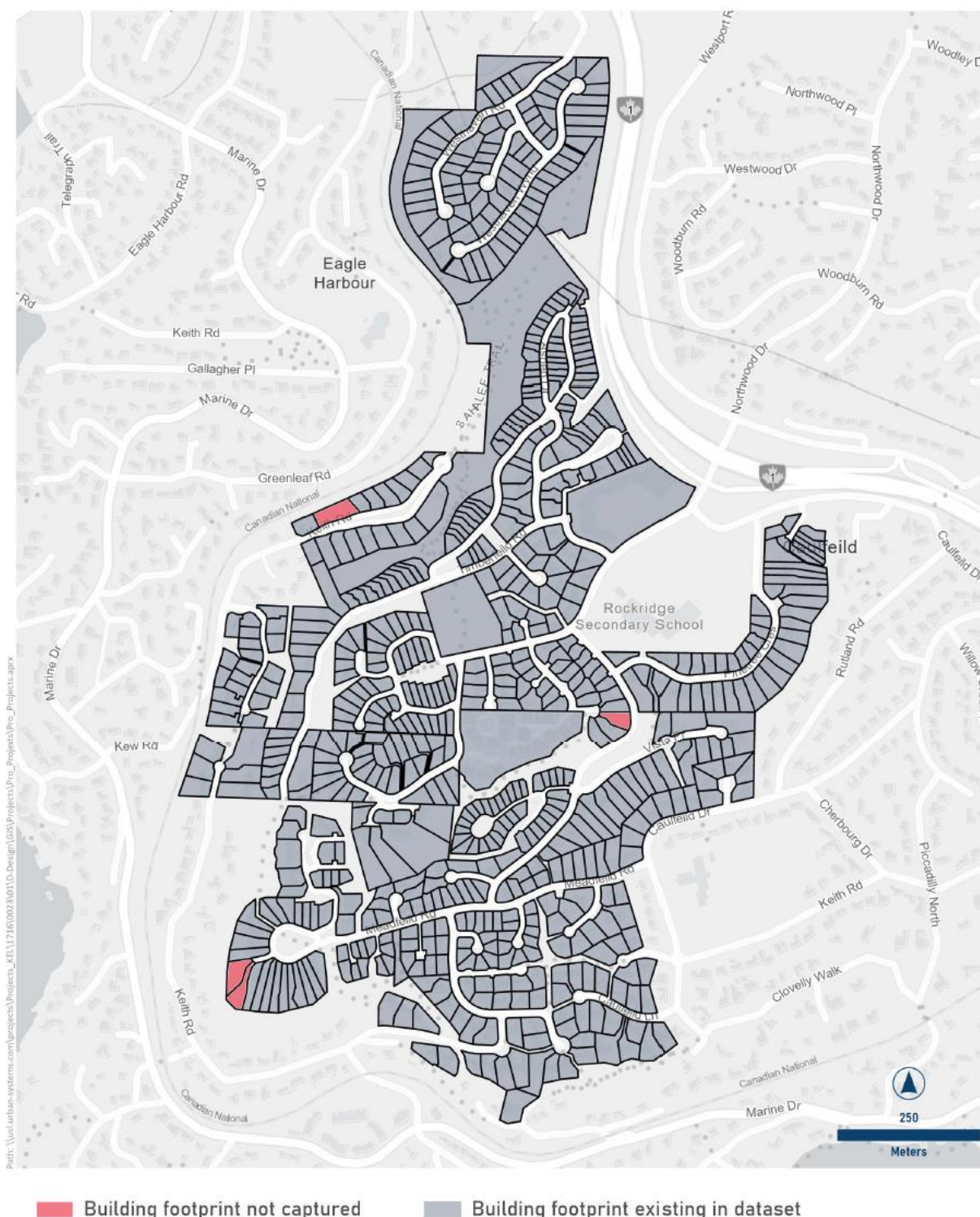
- The analysis for the strata parcel located at 5128 Alderfeild Place parcel is approximate as data was not available due to how recently development was completed (2022). The building footprints were estimated through GIS software measurement tools. It is important to note that this parcel is included as part of the larger strata development located at 5110-5128 Alderfeild Place.
- Due to LiDAR limitations, it appears that building footprints for principal buildings extend over multiple parcels in some instances. For the purposes of this analysis, these properties were divided based on existing property lines to better approximate the actual building footprint size.
- The FAR calculations were conducted by multiplying the building footprint data with the number of storeys data available for each parcel. This means that for a development with more than one storey, it was assumed that any additional storeys have the same floor area as the building footprint. The site coverage calculations were conducted by dividing the building footprint data with the parcel size for each lot.
- Some parcels with an existing building do not have building footprint data available. In these instances, building footprints have been approximated based on aerial imagery. These parcels are shown in Figure 3.
- In one instance, where parcel information was duplicated for 5293/5287 Aspen Crescent, the analysis was conducted only once to avoid duplication. In addition, the data show that the building located on these parcels is one storey; however, Google StreetView imagery shows two storeys, and the calculations reflect two storeys rather than one.

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Figure 3. Parcels Without Building Footprint Data.



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2.0 NON-CONFORMITIES

2.1 FAR

Table 2 and Figure 4 below outline the distribution of FAR non-conformities in Caulfeild by zone.

Table 2. FAR Non-Conformities in Caulfeild by Zone.

	RS2	RS3	RS10
Parcels >681.3 m ² with FAR >0.3	10	20	297
Parcels >681.3 m ² with floor area >975.5 m ²	0	N/A	N/A
Parcels >681.3 m ² with floor area >585.4 m ²	N/A	0	81
Parcels >681.3 m ² with FAR >0.3 and floor area > 585.4 m ²	N/A	0	77
Parcels 408.8-681.3 m ² with floor area >204.4 m ²	1	0	185
Parcels <408.8 m ² with FAR >0.5	0	0	43

2.2 SITE COVERAGE

Table 3 and Figure 5 below identify the distribution of site coverage non-conformities in Caulfeild by zone.

Table 3. Site Coverage Non-Conformities in Caulfeild by Zone.

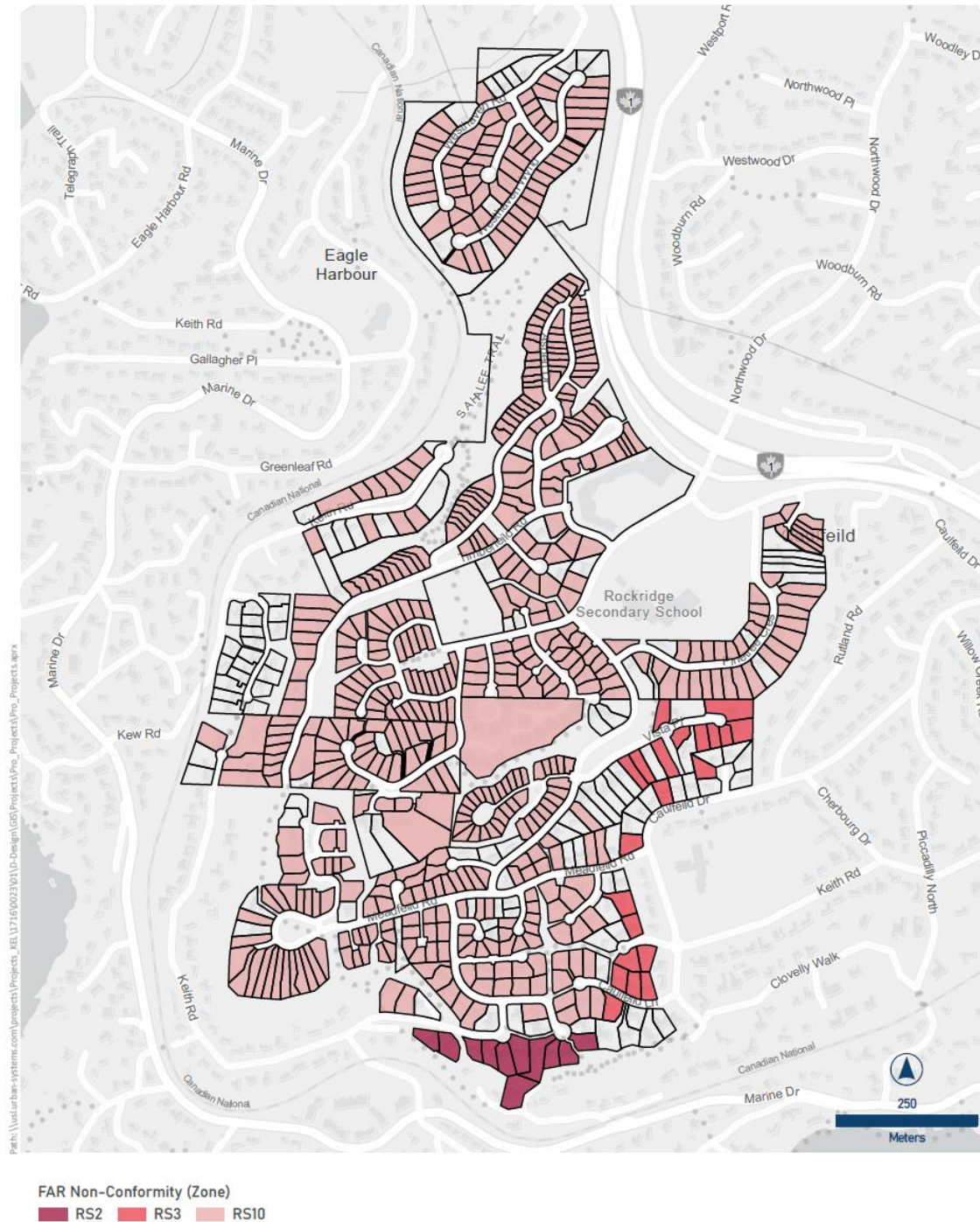
	RS2	RS3	RS10
Parcels >885 m ² with site coverage >30%	3	2	38
Parcels 664 - 885 m ² with site coverage >266 m ²	0	3	25
Parcels <664 m ² with site coverage >40%	0	0	87

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Figure 4. FAR Non-Conformities by Zone.

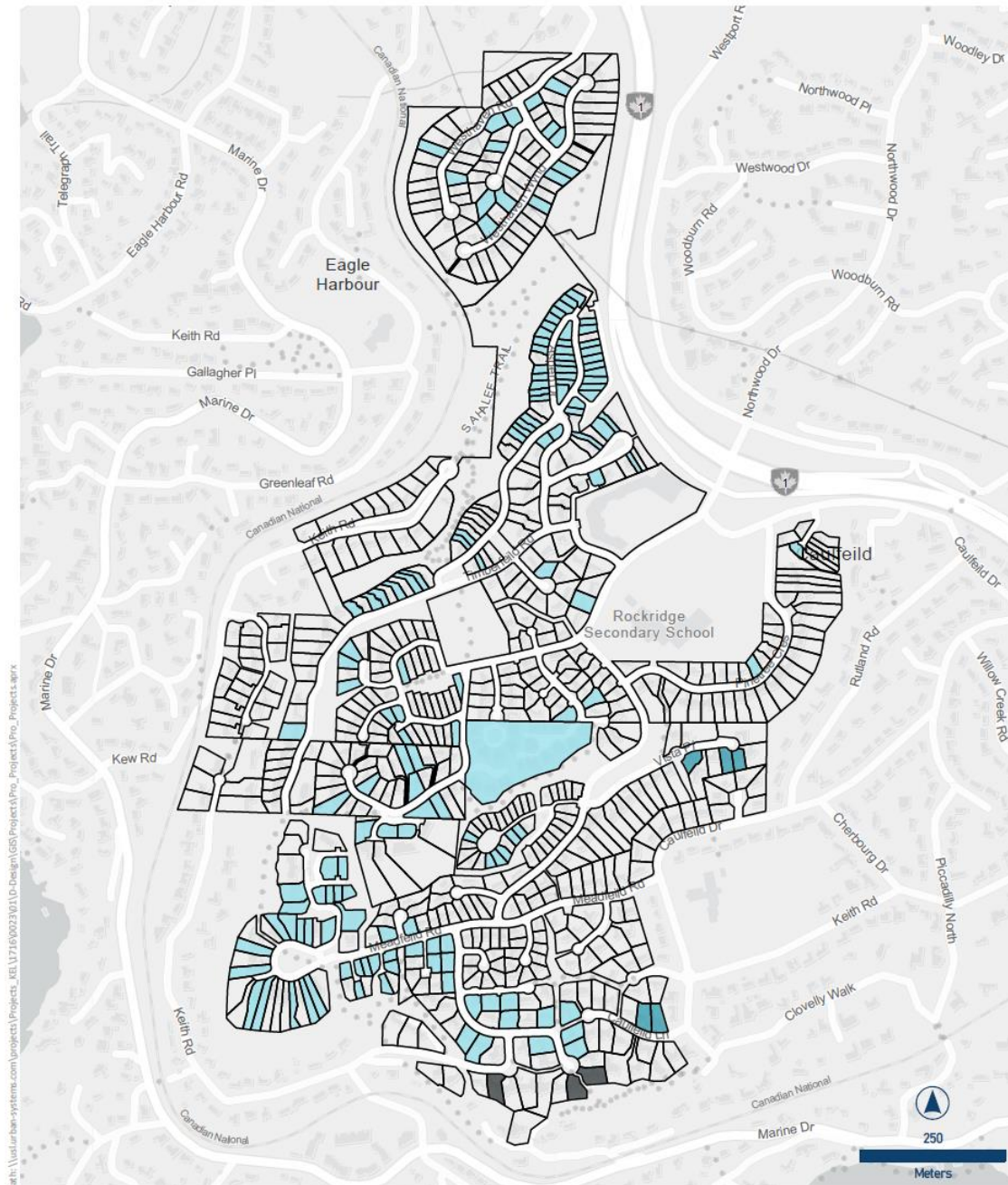


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Figure 5. Site Coverage Non-Conformities by Zone.



Site Coverage Non-Conformity (Zone)
 RS2 RS3 RS10

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