

**AMENDED**

**CORPORATION OF THE CITY OF COURTENAY  
COUNCIL MEETING AGENDA**

**DATE:** Monday, January 7, 2013  
**PLACE:** City Hall Council Chambers  
**TIME:** 4:00 p.m.

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**1.00 ADOPTION OF MINUTES**

1. Adopt December 17, 2012 Regular Council Meeting Minutes

**2.00 INTRODUCTION OF LATE ITEMS**

**3.00 DELEGATIONS**

1. William Davis and Barbara Rowe re: Zoning Amendment Bylaw No. 2731 (see pg#1)

**4.00 COMMITTEE/STAFF REPORTS**

**(a) Planning Services**

- 1 1. Zoning Amendment – 1890 Mallard Drive

**Mayor: ask for public input**

- 33 2. Development Permit No. 1221 – 291-3<sup>rd</sup> Street

**(b) Operational Services**

- 49 3. Statutory Right of Way – 3610 Christie Parkway

**5.00 REPORTS AND CORRESPONDENCE FOR INFORMATION**

- 69 1. Vancouver Island Regional Library Branch Activities

**6.00 REPORTS FROM COUNCIL REPRESENTATIVES**

**7.00 RESOLUTIONS OF COUNCIL**

1. In Camera Meeting

That under the provisions of Section 90(1)(e) of the *Community Charter*, notice is hereby given that a Special In-Camera meeting closed to the public, will be held January 7, 2013 at the conclusion of the Regular Council Meeting.

**8.00 UNFINISHED BUSINESS**

**9.00 NOTICE OF MOTION**

**10.00 NEW BUSINESS**

**11.00 BYLAWS**

**For First and Second Reading**

- 75an 1. “Zoning Amendment Bylaw No. 2731, 2013”  
(to allow a secondary suite within an existing single residential dwelling)

**For Final Adoption**

1. “Road Closure Bylaw No. 2721, 2012”  
(to close a small portion of walkway on Hunt Road)

**NOTE:** Statutory advertising was conducted and no comments from the public were received.

**12.00 COUNCIL MEMBER ROUND TABLE**

**13.00 ADJOURNMENT**

7

# THE CORPORATION OF THE CITY OF COURTENAY

## REPORT TO COUNCIL

FROM: Development Services Department

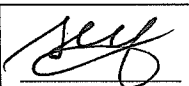
FILE #: 3360-20-1213

DATE: December 21, 2012

SUBJECT: Application No. 1213 to Amend Zoning Bylaw No. 2500, 2007  
1890 Mallard Drive  
Lot 8, District Lot 157, Comox District, Plan VIP54769

### C.A.O. COMMENTS/RECOMMENDATIONS:

That the recommendation of the Director of Development Services be accepted.

  
Sandy T. Gray

### RECOMMENDATION:

That Council consider the application to amend *Zoning Bylaw No. 2500, 2007* for the property legally described as Lot 8, District Lot 157, Comox District, Plan VIP54769 (1890 Mallard Drive);

That *Zoning Amendment Bylaw No. 2731, 2013* to rezone the lot shown in bold on *Attachment No. 1* from Residential One Zone (R-1) to Residential One S Zone (R-1S) proceed to 1<sup>st</sup> and 2<sup>nd</sup> reading; and

That Council direct staff to schedule and advertise a statutory public hearing with respect to *Zoning Amendment Bylaw No. 2731, 2013* on January 21, 2013 at 5:00 p.m. in City Hall Council Chambers.

### PURPOSE:

To consider an application to rezone the subject property from Residential One Zone (R-1) to Residential One S Zone (R-1S) to allow a secondary suite within an existing single residential dwelling.

### BACKGROUND:

The subject property contains an existing single residential dwelling with a walk-out basement on an approximately 803 m<sup>2</sup> lot. Access to the suite will be from the rear of the property. The surrounding land use is single residential and the applicant has provided letters of support from neighbouring residents.

A location map and reference information is contained in *Attachment No. 1*. Information provided by the applicant is contained in *Attachment No. 2*. Public input is included as *Attachment No. 3*.

### DISCUSSION:

As outlined above, the applicant is proposing to rezone the subject property to allow a secondary suite within an existing single residential dwelling.

### Official Community Plan Review:

The subject property is designated Urban Residential, pursuant to *Official Community Plan Bylaw No. 2387*, and is not within a Development Permit Area.

The Urban Residential designation is for single and duplex residential development. This designation includes the policy statement that secondary suites will be considered as part of a principal single-family residential building subject to zoning approval.

It is staff's opinion that the proposed rezoning is consistent with the Urban Residential policies of the OCP.

### **Zoning Review:**

Secondary suites must meet the following criteria:

- be no more than 90 m<sup>2</sup> in area;
- may occupy no more than 40% of the habitable floor space of the building;
- must be located within a building of residential occupancy containing only one other dwelling unit;
- must be located in a building which is part of a single real estate entity.

The applicant has indicated that the proposed suite can be constructed to meet the above requirements and has submitted preliminary plans as shown in *Attachment No. 2*. In addition, properties with secondary suites are required to provide a minimum of three off-street parking spaces. The applicant has submitted plans showing parking for six vehicles.

As this proposal is consistent with the Urban Residential and Climate Change policies of the OCP, the City's Affordable Housing Policy, and can meet the secondary suite provisions of the zoning bylaw, staff support the proposed rezoning.

### **Affordable Housing Policy**

The City of Courtenay Affordable Housing Policy states that "the City will review best practices in the areas of OCP, zoning, and subdivision bylaws for greater densification and inclusionary land use regulation by expanding the application of secondary suites and secondary residences".

### **Public Input**

The applicant held a neighbourhood public information meeting on December 11. Three local residents attended and they expressed support for the development proposal. Details of the public information meeting are contained in *Attachment No. 3*. Prior to submitting an application, the applicants also collected letters of support from neighbouring residents. Copies of the letters are also contained in *Attachment No. 3*.

### **FINANCIAL IMPLICATIONS:**

Not applicable.

### **STRATEGIC PLAN REFERENCE:**

Value No. 2 - A progressive, diverse and sustainable City.

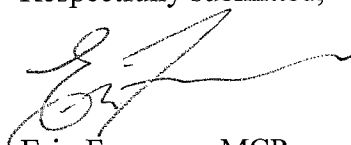
### **OCP SUSTAINABILITY REFERENCE:**

Part 10 of the OCP, Planning for Climate Change, includes the policy to encourage infill development in single-residential neighbourhoods in the form of secondary suites and auxiliary buildings

**REGIONAL GROWTH STRATEGY REFERENCE:**

The proposed development addresses the Comox Valley Regional Growth Strategy goal to ensure a diversity of housing options to meet evolving demographics and needs, and to encourage the provision of alternative housing forms that provide housing at lower costs and with lower environmental impacts.

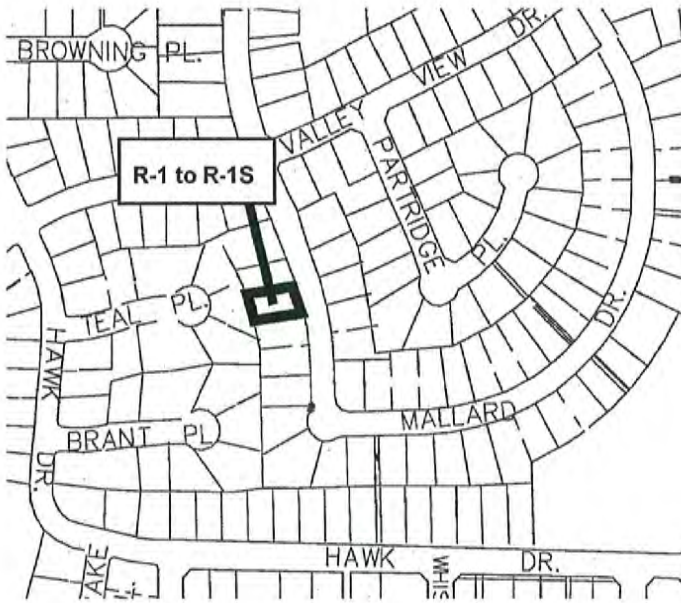
Respectfully submitted,



Erin Ferguson, MCP  
Planning Technician



Peter Crawford, MCIP  
Director of Development Services

**Applicants/Owners:**

William Hugh Davis and Barbara Rowe

**Location:**

1890 Mallard Drive

**Legal Description:**

Lot 8, District Lot 157, Comox District, Plan VIP54769

**OCP Designation:** Urban Residential**Zoning:***Required**Proposed***R-1****R-1S****Permitted Uses:**Single residential dwelling,  
accessory building, home  
occupationSingle residential dwelling, accessory  
building, home occupation, **secondary  
suites****Secondary Suite:**>40% of habitable floorspace  
90.0 m<sup>2</sup> Maximum  
3 parking spaces minimum25% of habitable area  
65 m<sup>2</sup>  
6 spaces

## **Zoning Amendment Application Submission 1890 Mallard Drive**

### **Zoning Amendment:**

The application is to amend the zoning for the subject property from R-1-Residential One to R-1S Residential One S. The amendment is required to allow the development of a secondary suite.

### **Property Description:**

The proposed development will result in a suite of approximately 65 square metres at the lower (walk-out) level of the existing house which has a gross floor area of approximately 256 square metres. The subject site has a three-car garage with an additional three driveway parking spaces. One parking space in either the garage or on the driveway is intended for tenant use.

### **Neighbourhood Compatibility**

The proposed development will not alter the visual appearance of the existing dwelling at the street line. The development will be consistent with the character of the streetscape and the adjacent dwellings and will fit into the surrounding neighbourhood. Exterior changes to the existing dwelling will be limited to the installation of a new exterior door at the rear of the house. Interior modifications will be limited and undertaken in compliance with the Building Bylaw. The dwelling is ideal for the creation of a secondary suite. The building will be owner occupied.

### **Development Standard Compliance**

The proposed development is in compliance with the City of Courtenay Zoning Bylaw development standards for accessory suites. The proposed suite is approximately 65 square metres, less than the maximum allowable size of 90 square metres. The suite comprises approximately 25% of the gross floor area, which is less than the maximum allowance of 40% of the gross habitable floor area. The site exceeds the minimum requirement for three spaces by providing six spaces, double the minimum requirement.

The proponent has met with City staff regarding the planning approval process and Building bylaw requirements.

### **Neighbourhood Consultation**

The owner hand delivered letters to 17 dwellings in the immediate vicinity of the subject site. All indicated support for the project. One dwelling has been vacant for two years. Copies of the signed letters of support are included with this submission.

## **Compliance with City Official Community Plan (OCP)**

Development of the suite is consistent with the OCP Goal and Policies for Residential Development (Section 4.4) with respect to:

- Support for the development of housing options for seniors
- Ensure the provision and integration of special needs and affordable housing
- Balancing land uses to create a vibrant and diverse neighbourhood and community
- Lead in creating inclusive neighbourhoods for housing

## **Sustainability Evaluation Check List**

The proposed development is consistent with the Sustainability Development Check List with respect to:

- Providing a mix of housing types and sizes
- Complementing the neighbouring uses and site topography
- Supporting a range of incomes
- Exhibiting high standards of design, landscaping and environmental sensitivity
- Maintaining a high standard of quality and appearance.

The proposed development will diversify the housing stock without any significant change to the neighbourhood environment. This type of development contributes to a compact community and utilizes existing community infrastructure.

## **Affordable Housing Policy**

The proposed development is aligned with the City's Housing Policy as the proposal will result in a modest density increase and provide a wider range of housing options. The City's Housing policy calls for the development of additional secondary suites and secondary dwelling units. The City's housing affordability policy recognizes the need "*to encourage the provision of secondary suites in single lot residential areas*". In that regard the proposed development is consistent with City Council's policy direction on expanding the supply of affordable housing.

## **Supporting Technical Information**

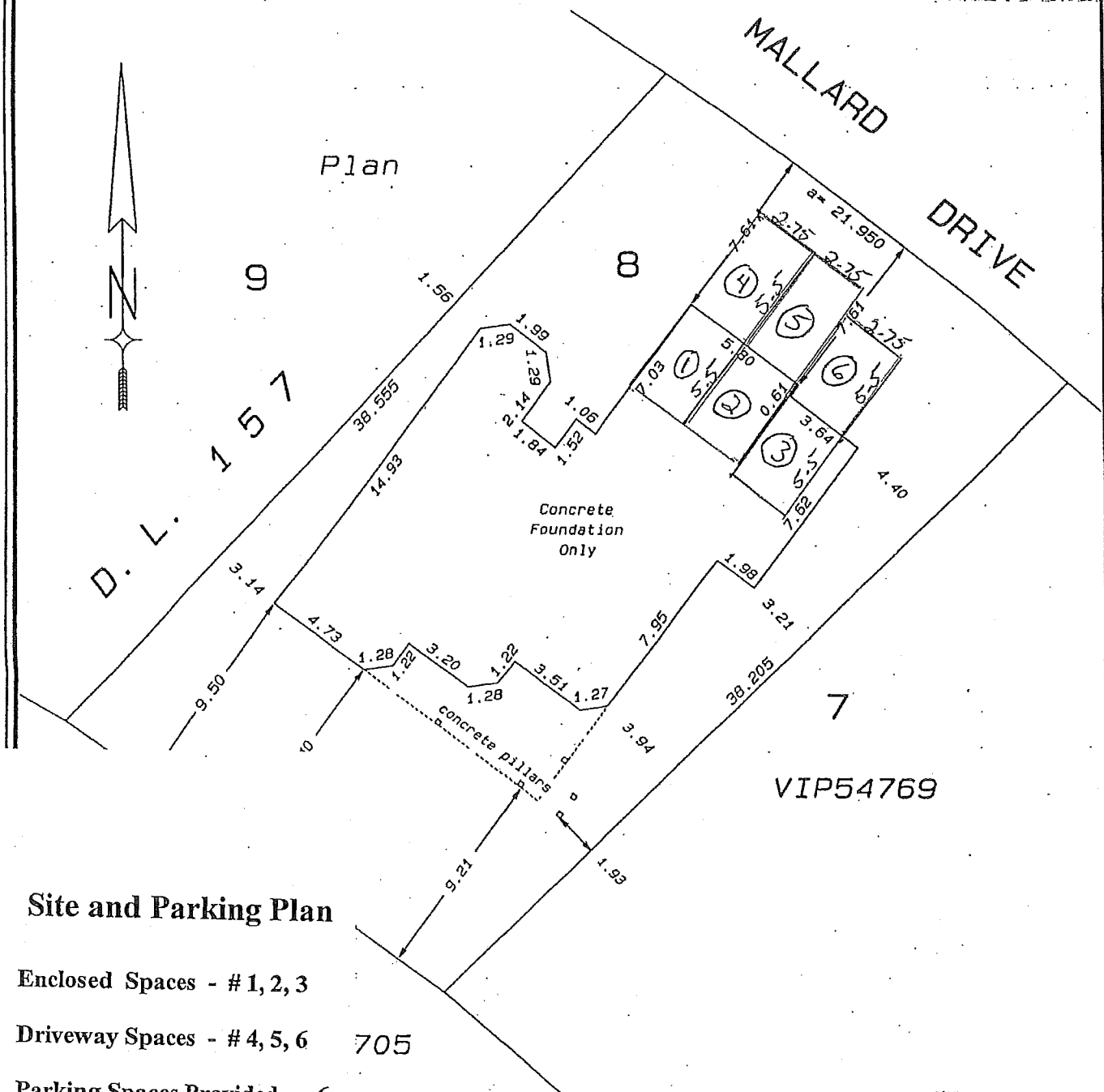
- Surveyors Certificate
- Site and Parking Plan
- Development Plans
- Photograph of Front Yard Parking Area
- Letters of Support and Location map



# B. C. LAND SURVEYOR'S CERTIFICATE OF LOCATION FOR :

LOT 8, DISTRICT LOT 157, 1/2 230  
COMOX DISTRICT, PLAN VIP54769

Civic Address : unavailable  
Parcel Identifier : 017-873-711

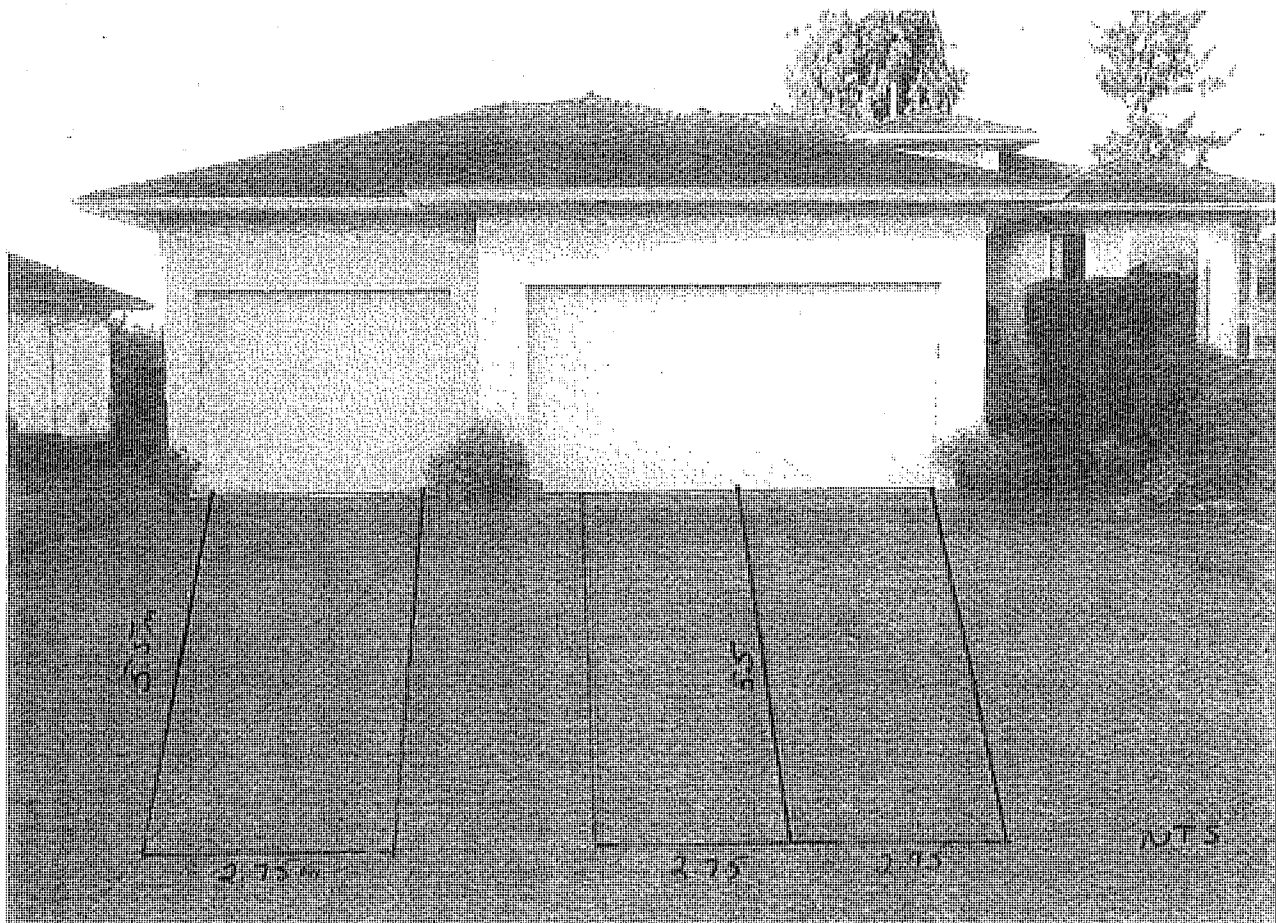
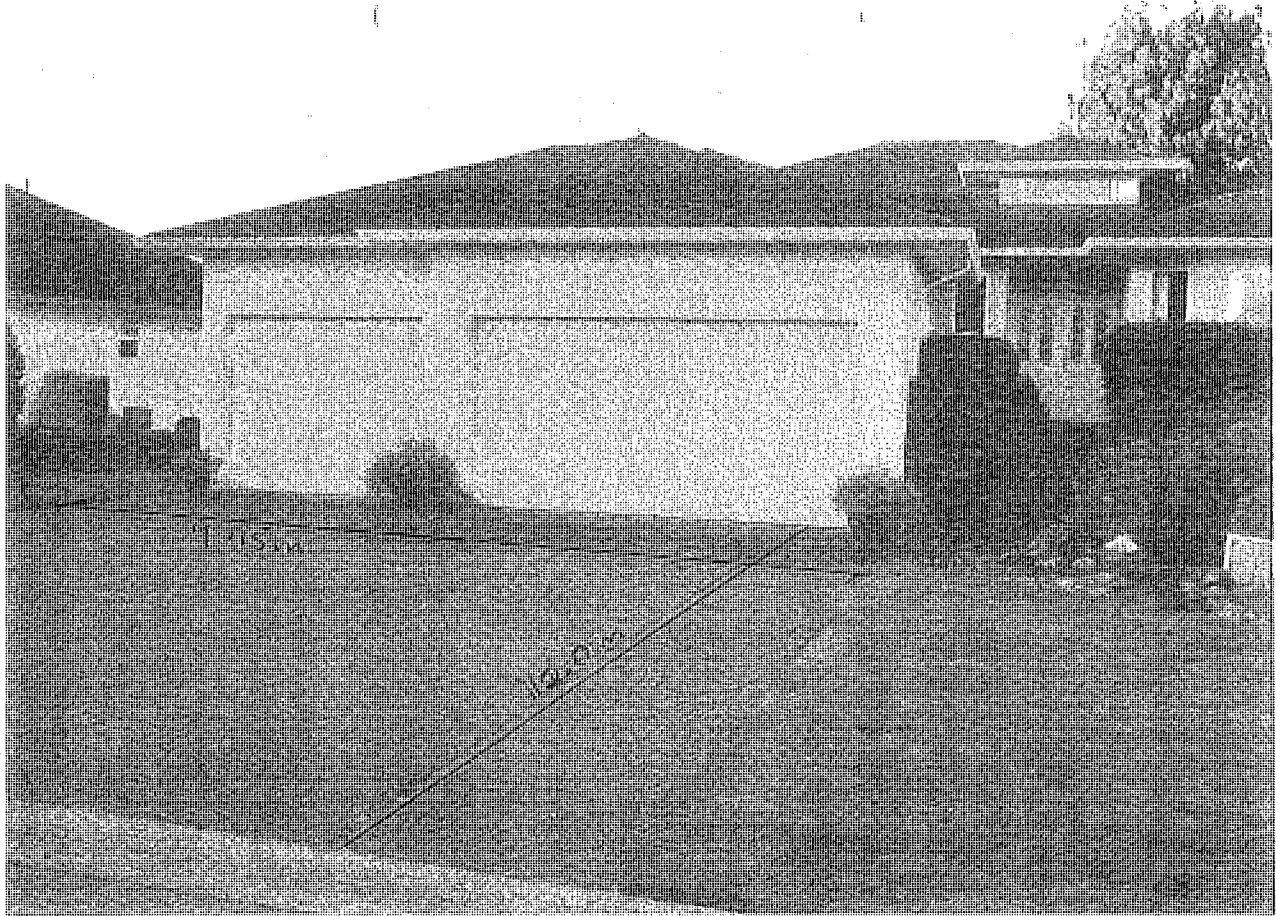


## Site and Parking Plan

Enclosed Spaces - # 1, 2, 3

Driveway Spaces - # 4, 5, 6

|                              |   |
|------------------------------|---|
| Parking Spaces Provided      | 6 |
| Required Spaces              | 3 |
| Spaces Exceeding Requirement | 3 |





## Summary of Public Information Meeting

December 11, 2012

1890 Mallard Drive, Courtenay British Columbia V9N 8M2

The Public Information Meeting was held at our home at 1890 Mallard Drive, Courtenay, British Columbia on December 11, 2012 from 7:00 p.m. to 8:30 p.m. Invitations were sent to 46 homeowners on the list provided by the City of Courtenay and the letters were received by the homeowners on December 1, 2012. The letter outlined details of the proposed application to the City of Courtenay for a secondary suite in the lower level of our home. A copy of the letter is included in this summary.

The following information was available at the meeting:

- Sign In Sheet
- Comment Sheet
- Site Plan
- Floor Plan of the suite
- Photo of the front of our property demonstrating the ability of our property to accommodate off street parking for our tenant.
- Site plan of the parking area for the tenant demonstrating the ability for parking for our personal use and the use of a tenant.

Three people attended the meeting and were given a tour of the proposed area to be converted into the suite. All attendees were given a full description of the changes to our property and how the tenant would be accessing the suite from the rear of the property. All attendees were also shown the parking area on our driveway to accommodate the off street parking requirement.

All attendees were in agreement with our proposal and none had any comments for the comment sheet. We are also including in the package emails received from homeowners in the area who received our invitation but were unable to attend the meeting for your consideration. Also included in this summary are letters of support we received from our neighbours prior to making our formal application.



Hugh Davis

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**From:** dolly  
**Sent:** December-01-12 12:43 PM  
**To:** h  
**Subject:** basement

Hi: We received your letter and want you to know we are quite all right with your plans. If it is better if we attend the meeting we certainly will, if not let us know and we will sign any form you may need.  
Chuck and Dolly Hall 1878 Mallard

FREE Animations for your email - by IncrediMail!

[Click Here!](#)



**Hugh Davis**

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**From:** Jake Jacobson [j]@  
**Sent:** December 05, 2012 11:07 AM  
**To:** Hugh Davis  
**Cc:** Jake Jacobson  
**Subject:** One Bedroom Suite

Hi Hugh and Barb;

Joanne and I will not be able make your public information meeting on Dec 11, however, we have no concerns about your converting your basement suite into a rental unit and will not oppose your application for a rezoning variance.

Have a wonderful Christmas.

Jake and Joanne Jacobson  
1821 Teal Place

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sr

ed

**Hugh Davis**

---

**From:** Marian Holm [i]  
**Sent:** December-05-12 10:42 AM  
**To:** Barb Rowes & Hugh Davis  
**Subject:** Suite  
**Attachments:** Christmas 2012.docx; Christmas photos 2012.docx

To Barb and Hugh:

This is a note to say that we support the idea of a suite in your house. The space is already there and it makes good sense to have another individual take advantage of that space to make a home for themselves.

Marian and Ian Holm



October 25, 2012

City of Courtenay  
830 Cliffe Avenue  
Courtenay, British Columbia  
V9N 2J7

Attention: Planning Services

Re: Zoning Amendment Application Submission  
1890 Mallard Drive, Courtenay, British Columbia V9N 8M2

Dear Sir or Madam:

William Hugh Davis and Barbara June Rowes, owners of the above mentioned property wish to amend the zoning on the property from R1 - Residential One to R-1S Residential One S Zone. This amendment is required to allow the for the development of a secondary suite in the walk-out lower level of our home.

The decision to create a suite in the lower walk-out level of our home was to provide an income stream for our family. Mr. Davis has been employed his entire working career in an industry that did not provide for any pension income beyond what the Federal Government provides through the Old Age Security benefit and Canada Pension Plan benefits. This income is not sufficient to cover the increasing costs of home ownership and the secondary suite will provide sufficient monthly income for our family to remain in our home.

We have spoken with 16 of the homeowners surrounding our property and have signed letters from each of the families concurring with our decision to build this secondary suite. Our neighbours have been very supportive of our request and believe that this suite will not negatively impact our neighbourhood.

We appreciate the consideration given this request and should you require any additional information please do not hesitate to contact us at any time. We look forward to hearing your decision in the near future.

Yours truly,



William Hugh Davis



Barbara June Rowes

Home Telephone Number: 250-897-1817  
Cell Number: 250-202-1011

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

To Whom It May Concern:

Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

Our target tenant would be an international student or single senior adult.

We are required to apply for a zoning variance in order to complete our plans and your concurrence is requested prior to us making application to the city for the necessary zoning changes required to accommodate the suite.

Thank you for your consideration of our request.

*Dwight Day* 1890 MALLARD DRIVE, COURTENAY, BC V9N 8M2

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

To Whom It May Concern:

Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

Our target tenant would be an international student or single senior adult.

We are required to apply for a zoning variance in order to complete our plans and your concurrence is requested prior to us making application to the city for the necessary zoning changes required to accommodate the suite.

Thank you for your consideration of our request.

Brian A Storey  
C Storey  
1886 Mallard Drive

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

To Whom It May Concern:

Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

Our target tenant would be an international student or single senior adult.

We are required to apply for a zoning variance in order to complete our plans and your concurrence is requested prior to us making application to the city for the necessary zoning changes required to accommodate the suite.

Thank you for your consideration of our request.

*BARRY + MAURETTE BREMER*  
*Barry + Maurette Bremer*  
*1895 Mallard Drive*  
*Courtenay B.C.*  
*V9N 8M2*

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

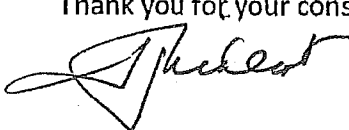
To Whom It May Concern:

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Our target tenant would be an international student or single senior adult.

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Thank you for your consideration of our request.

 1890 MALLARD DR.

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

To Whom It May Concern:

Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

Our target tenant would be an international student or single senior adult.

We are required to apply for a zoning variance in order to complete our plans and your concurrence is requested prior to us making application to the city for the necessary zoning changes required to accommodate the suite.

Thank you for your consideration of our request.

*Erin Perkins*  
*J. Perkins*

*1898 Mallard Dr.  
Courtenay BC.*

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2


To Whom It May Concern:

Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

Our target tenant would be an international student or single senior adult.

We are required to apply for a zoning variance in order to complete our plans and your concurrence is requested prior to us making application to the city for the necessary zoning changes required to accommodate the suite.

Thank you for your consideration of our request.

  
1897 MALLARD DRIVE  
COURTENAY.

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

To Whom It May Concern:

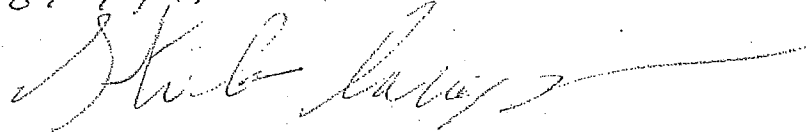
Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

Our target tenant would be an international student or single senior adult.

We are required to apply for a zoning variance in order to complete our plans and your concurrence is requested prior to us making application to the city for the necessary zoning changes required to accommodate the suite.

Thank you for your consideration of our request.

1890 MALLARD DR.





August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

To Whom It May Concern:

Hugh Davis and Barbara Rows, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

Our target tenant would be an international student or single senior adult.

We are required to apply for a zoning variance in order to complete our plans and your concurrence is requested prior to us making application to the city for the necessary zoning changes required to accommodate the suite.

Thank you for your consideration of our request.

1865 Mallard DR.

Saralyn Parent

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

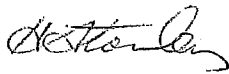
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Thank you for your consideration of our request.

  
1887 Mallard Drive  
Courtenay

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

To Whom It May Concern:

Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

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Thank you for your consideration of our request.

*Vernon Hall*  
*1878 MALLARD DRIVE*  
*COURTENAY BC*

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

To Whom It May Concern:

Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

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Thank you for your consideration of our request.

Vince Lawson  
1890 Mallard Drive  
Courtenay, BC

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2


To Whom It May Concern:

Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

Our target tenant would be an international student or single senior adult.

We are required to apply for a zoning variance in order to complete our plans and your concurrence is requested prior to us making application to the city for the necessary zoning changes required to accommodate the suite.

Thank you for your consideration of our request.

  
Chelsea Kennedy

1931 VALLEY VIEW DR.  
COURTENAY B.C  
V9N 8M3

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

To Whom It May Concern:

Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

Our target tenant would be an international student or single senior adult.

We are required to apply for a zoning variance in order to complete our plans and your concurrence is requested prior to us making application to the city for the necessary zoning changes required to accommodate the suite.

Thank you for your consideration of our request.

*R Burden & Karin Burden*  
*1894 Mallard Dr.*

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

To Whom It May Concern:

Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

Our target tenant would be an international student or single senior adult.

We are required to apply for a zoning variance in order to complete our plans and your concurrence is requested prior to us making application to the city for the necessary zoning changes required to accommodate the suite.

Thank you for your consideration of our request.

Marilyn Luong  
1883 Mallard Dr.  
Courtenay BC. V9N8M2

August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

To Whom It May Concern:

Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

Our target tenant would be an international student or single senior adult.

We are required to apply for a zoning variance in order to complete our plans and your concurrence is requested prior to us making application to the city for the necessary zoning changes required to accommodate the suite.

Thank you for your consideration of our request.

FATOKI OSMANI<sup>o</sup>

1861 TEAL PL.

*[Signature]*



August 7, 2012

Re: 1890 Mallard Drive  
Courtenay, British Columbia  
V9N 8M2

To Whom It May Concern:

Hugh Davis and Barbara Rowes, owners of the above mentioned property would like to request your concurrence to complete a renovation to the lower level of their property to construct a one bedroom suite of approximately 550 square feet. The lower level of the property is currently developed for our personal use and the conversion to the suite would be a minor renovation. The sitting area, bedroom and bathroom are completed and the construction would include a separation wall between the area of the lower level we would maintain for our personal use and the suite plus construction of a kitchen. The suite would have a separate entrance from the rear of the property. Our property has a triple car garage and the single garage area would be offered to the tenant so on street parking would not be an issue.

Our target tenant would be an international student or single senior adult.

We are required to apply for a zoning variance in order to complete our plans and your concurrence is requested prior to us making application to the city for the necessary zoning changes required to accommodate the suite.

Thank you for your consideration of our request.

Nicole Craig  
1852 Teal Pl.

M. Craig



2

# THE CORPORATION OF THE CITY OF COURTENAY

## REPORT TO COUNCIL

FROM: Development Services Department

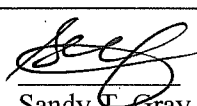
FILE #: 3060-20-1221

DATE: December 27, 2012

**SUBJECT: Application for Development Permit with Variances No. 1221**  
**Lot 3, Block A, Section 61, Comox District, Plan 1395**  
**291 3<sup>rd</sup> Street**

### C.A.O. COMMENTS/RECOMMENDATIONS:

That the recommendation of the Director of Development Services be accepted.



Sandy T. Gray

### RECOMMENDATION:

That Development Permit with Variances No. 1221 be approved for the construction of a granny flat and single residential dwelling with the following variance to the *City of Courtenay Zoning Bylaw No. 2500, 2007*:

- *Section 8.2.27 (3)*, reducing the side yard setback adjacent to a street from 4.5 metres to 3.3 metres; and

That Development Permit with Variances No. 1221 be issued for the property legally described Lot 3, Block A, Section 61, Comox District, Plan 1395 (291 3<sup>rd</sup> Street) subject to the following conditions:

- Development must be in conformance with the plans and elevations contained in *Attachment No. 2*;
- Submission of landscape security in the amount of (125% x \$5,500.00) \$6,875.00;
- The following minimum depths of topsoil or amended organic matter are required for all landscaped areas:  
*Shrubs – 450 mm*  
*Groundcover and lawn – 300 mm*  
*Trees – 300 mm around and below rootball*
- Landscaping must be completed within six months of the date of issuance of the occupancy permit by the City;
- All building and site lighting must be full cut off, flat lens in accordance with the City's Dark Skies Policy;
- Parking areas must be developed in accordance with *Zoning Bylaw No. 2500, 2007*, Division 7, Off-Street Parking and Loading Spaces and must have permeable surfaces;
- That if the permit holder has not substantially commenced any construction to which the permit was issued within twelve (12) months after the date it was issued, the permit

lapses.

### **PURPOSE:**

To consider the issuance of a Development Permit with Variances for a proposed single residential dwelling and granny flat within the Old Orchard area.

### **BACKGROUND:**

The subject property (formerly part of the Laurel Lodge site) was recently re-designated from Public-Institutional use to Urban Residential in the Official Community Plan and rezoned from Comprehensive Development Nine (CD-9) to Residential Two B (R-2B) to accommodate the proposed single residential dwelling and granny flat. The proposed development is also subject to the guidelines of the Old Orchard Development Permit Area and the Duplex, Carriage House and Secondary Residence Development Permit Area. This application is for a development permit for the form and character of the proposed development and to request a variance to the side yard setback adjacent to Duncan Avenue.

A map showing the subject property is contained in *Attachment No. 1*; the site plan, landscape plan, renderings, and elevations are contained in *Attachment No. 2*; and the applicant's sustainability statement and affordable housing statement are included as *Attachment No. 3 and 4*.

### **DISCUSSION:**

#### **Official Community Plan**

As noted above, the subject property is designated as Urban Residential in the Official Community Plan. The Urban Residential designation is for single and duplex residential development and supports infill that is in keeping with the character and scale of the existing neighbourhood. The proposed development is also subject to the Old Orchard and Duplex, Carriage House and Secondary Residence Development Permit Guidelines. The intent of the Old Orchard development permit guidelines is to ensure that new development "respects historic patterns of development and contributes positively to the heritage character and strong sense of neighbourhood". In addition, the duplex, carriage house and secondary residence development permit guidelines ensure that granny flats and carriage house style development "incorporates design elements which create visual interest and variety, respects natural topography, and is sensitive to impacts on neighbouring properties".

The applicant is proposing a heritage style single residential dwelling and granny flat which compliment the scale, character and development pattern of the area. The two buildings have coordinated exteriors with horizontal hardi-plank siding in a consistent colour scheme. Features that reflect the heritage homes in the area include steeply pitched roofs, accented gables, front porches, and multi-pane windows. The applicant is also proposing to add fruit trees to continue the landscaping theme in the Old Orchard area. It is staff's opinion that this proposal meets the development permit guidelines of the Old Orchard and the Duplex, Carriage House and Secondary Residence Development Permit Areas.

## **Zoning Bylaw**

The applicant is requesting to vary the side yard setback for a portion of the single residential dwelling adjacent to Duncan Avenue. *Section 8.2.27 (3)*, of the *Zoning Bylaw* requires a minimum building setback of 4.5 metres where a side yard flanks a street. As shown in *Attachment No. 2*, the applicant is proposing a minimum building setback of 3.3 metres to allow the dining room to extend into the required setback. Trellis features have been added to either side of the of the dining room bump-out adding visual interest to the side of the house which faces a public street. The remainder of the development including the proposed granny flat meets the requirements of the R-2B zone.

Staff have no objection to the proposed variance and feel that the reduced setback will have little impact on neighbouring properties or future servicing requirements.

## **Public Input**

The applicant held a public information meeting at the time of rezoning. The project was well received by those in attendance who felt the proposal for several single family residences with carriage houses or granny flats will maintain the character of the historic neighbourhood. One resident expressed support for the project overall but also expressed a desire to see a greater mix in the size of the houses with smaller houses that might be suitable for empty nesters, singles or smaller households in addition to the larger homes suitable for young families.

Surrounding property owners and tenants were also notified of the proposed variance to the zoning bylaw as part of the development permit application process. No comments have been received to-date.

## **FINANCIAL IMPLICATIONS:**

None at this time.

## **STRATEGIC PLAN REFERENCE:**

The proposed development supports the following Council Goals for the 2012-2014 term outlined in the 2011 Annual Report:

- Provide proactive leadership for growth management
- Advocate high standards of design and community aesthetics
- Support community initiatives and distinct neighbourhoods

## **OCP SUSTAINABILITY REFERENCE:**

The proposed development supports many of the Climate Change Goals and Policies outlined in Chapter 10 of the OCP - "Planning for Climate Change" including:

- encouraging and supporting initiatives that reduce the number of passenger vehicle trips throughout the community
- encourage incremental infill development in core and suburban settlement areas
- Promoting walking as an important transportation mode

Infill development contributes to a more compact form of development by developing on land closer to the urban core, often on land with existing services. Due to the proximity to downtown,

the proposed development will promote a pedestrian lifestyle by providing the opportunity for future residents to access many shops, services and civic amenities within a short walk. In addition, the developers will be contributing to the enhancement of Cliffe Avenue as part of the development requirements

**REGIONAL GROWTH STRATEGY REFERENCE:**

This proposal is consistent with the Comox Valley Regional Growth Strategy as it is within the core settlement area and provides a diversity of housing options to meet evolving demographics and needs.

Respectfully submitted,



Erin Ferguson, MCP  
Planning Technician



Peter Crawford, MCIP  
Director of Development Services



Subject Property



Looking South



Looking West

**Applicant & Owner:**

Croonen Construction

**Location:**

291 3rd Street

**Legal Description:**

Lot 3, Block A, Section 61, Comox District, Plan 1395

**Zoning:**Provisions of R-2BDevelopment Proposal**Permitted Uses****HOUSE**

|                    |  |                                     |
|--------------------|--|-------------------------------------|
| Front Yard Setback | 7.5 m  | 6.9 m                               |
| Rear Yard Setback  | 7.5 m  | 18 m                                |
| Side Yard Setback  | 1.5 m internal lot line<br>4.5m adjacent to street | 1.5 m<br>3.3 m * variance requested |
| Max. Lot Coverage  | 40%  | 28%                                 |
| Floor Area Ratio   | 0.55   | 0.43                                |
| Max. Height        | 8.0 m  | 6.1 m                               |
| Useable Open Space | 80 m <sup>2</sup>                                  | 160 m <sup>2</sup>                  |

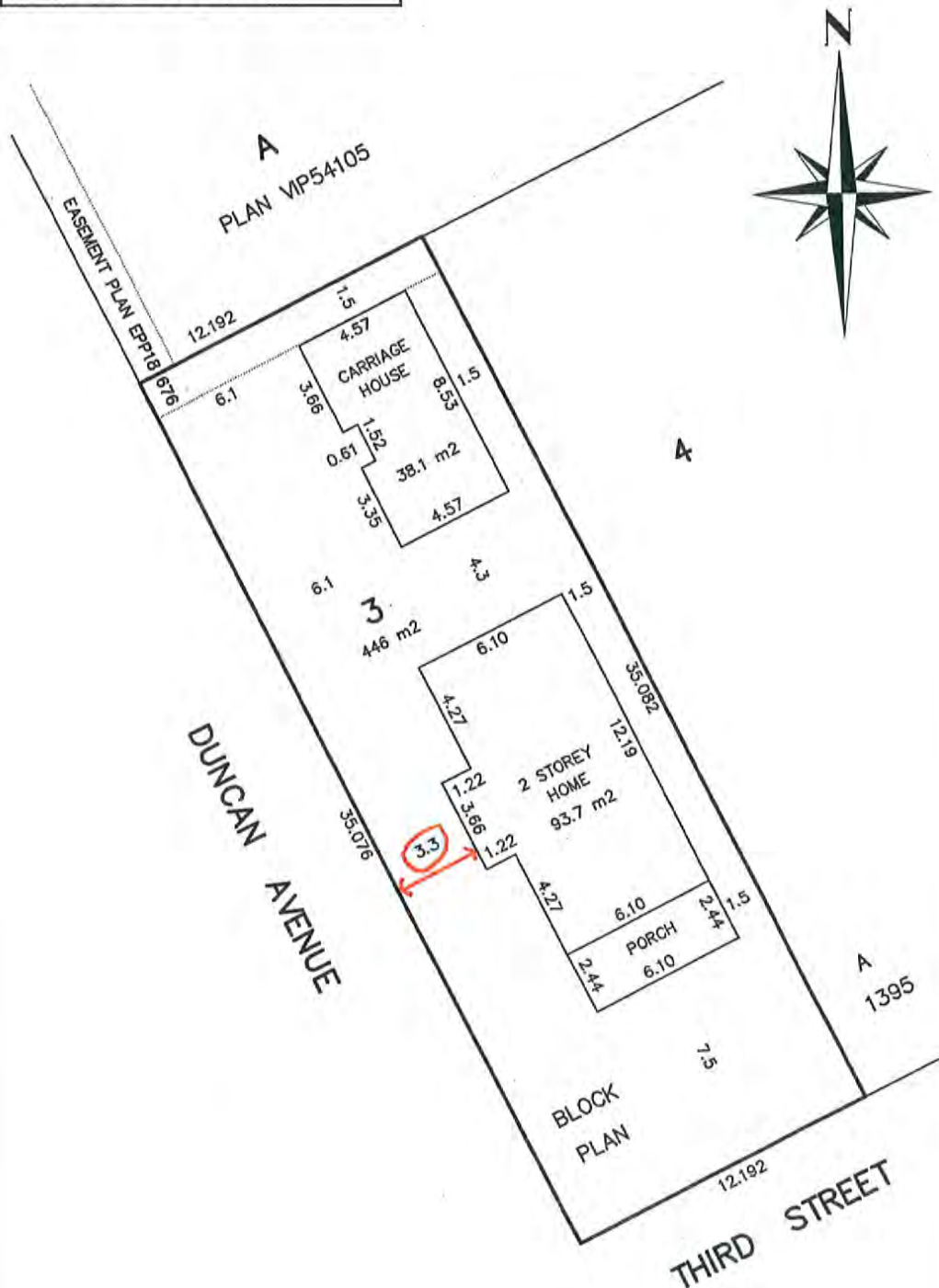
**GRANNY FLAT**

|                 |   |                   |
|-----------------|---|-------------------|
| Setback         | 1.5 m from internal lot line<br>4.5 m from street | 1.5 m<br>6.1 m    |
| Max. Floor Area | 48 m <sup>2</sup>                                 | 30 m <sup>2</sup> |

**Adjacent Land Uses:** residential to east and west, institutional to north, and commercial to south

PLAN OF PROPOSED HOME AND CARRIAGE HOUSE ON LOT 3,  
BLOCK A, SECTION 61, COMOX DISTRICT, PLAN 1395.

THIRD STREET, COURTENAY  
SCALE 1 : 200 (METRIC)



HOERBURGER LAND SURVEYORS  
COMOX, B.C.  
(250) 890-0100  
FILE: C894LT3 USB3

NOTES:

LOT DIMENSIONS COULD CHANGE UPON A COMPLETE  
RESURVEY OF THE SUBJECT PROPERTY.

LOT COVERAGE IS 29.5%



**Sidewalk:**



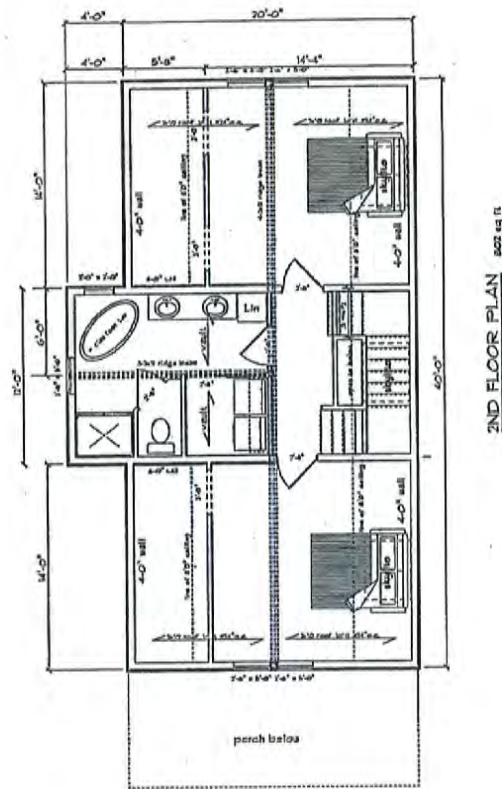
40

SITE PLAN / MAIN FLOOR PLAN 846 SQ. FT.

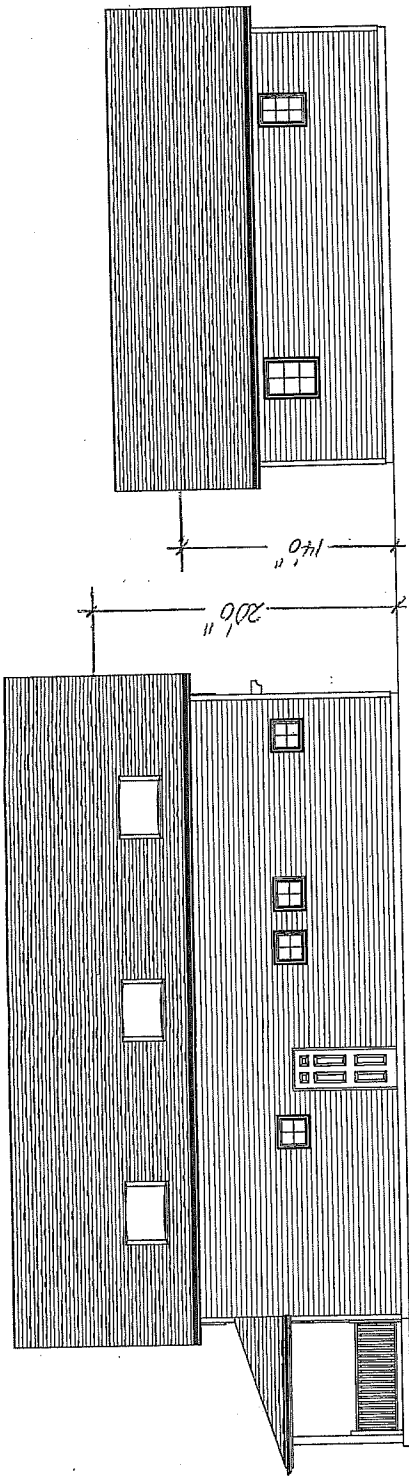
GRANNY FLAT 320 SQ FT

North

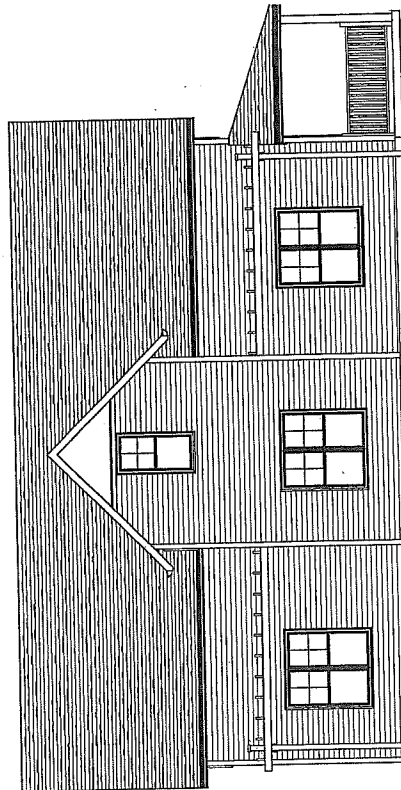
RECEIVED  
OCT 23 2012  
CITY OF COURTENAY



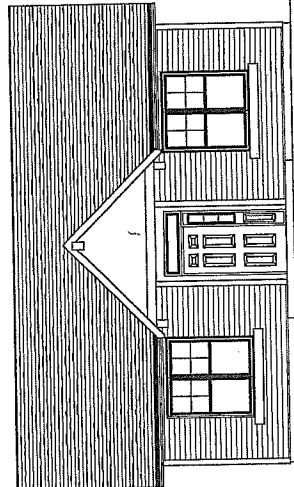
NOV 04/07  
10:02 AM  
CITY OF COUR



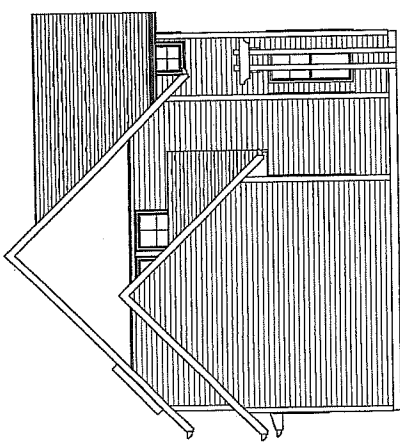
RIGHT ELEVATION  $\frac{1}{8}'' = 1'0''$



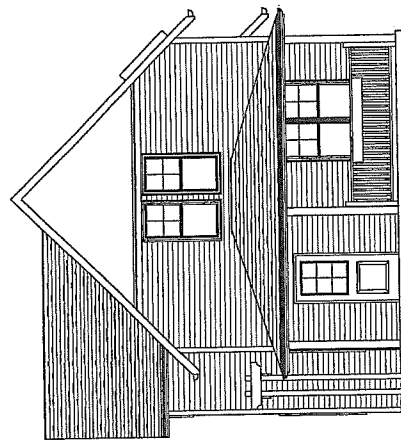
LEFT ELEVATION Duncan Ave

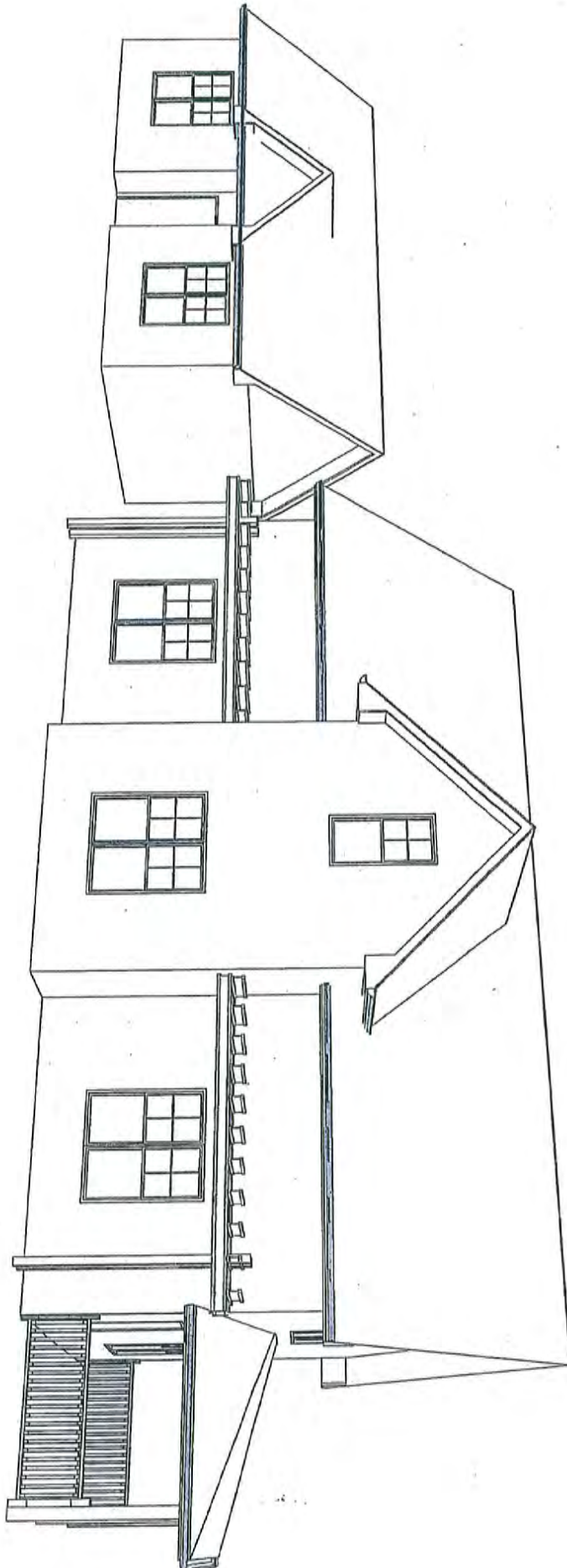


FRONT ELEVATION 3rd St



REAR ELEVATION





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To: City of Courtenay  
Attn: Planning Department  
291 3<sup>rd</sup> St. (lot3)

Plans completed by Croonen Construction Co. Ltd.  
(250-898-1023)

Colours:

Cedar shingles= NA

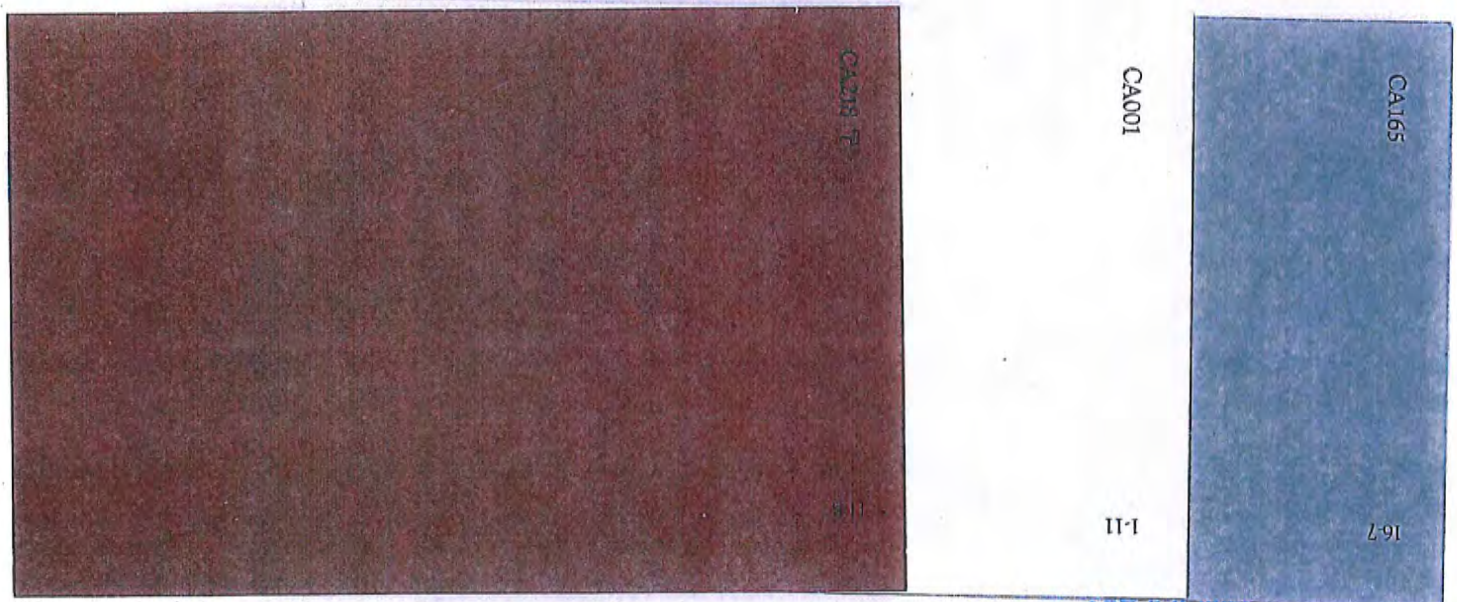
Hardi plank/~~panel~~= CA 165 SEA STONE

Fascia and window trim= CA 001 BUTTER MILK

~~Stucco~~=HARDI PANEL CA 001 BUTTER MILK

ACCENTS + DOOR CA 218 CAYENNE  
(See attached photos)

Croonen Construction Co. Ltd.



Note: Colour not true to swatches in photocopy.

OCT 23 2012

CITY OF COURTENAY



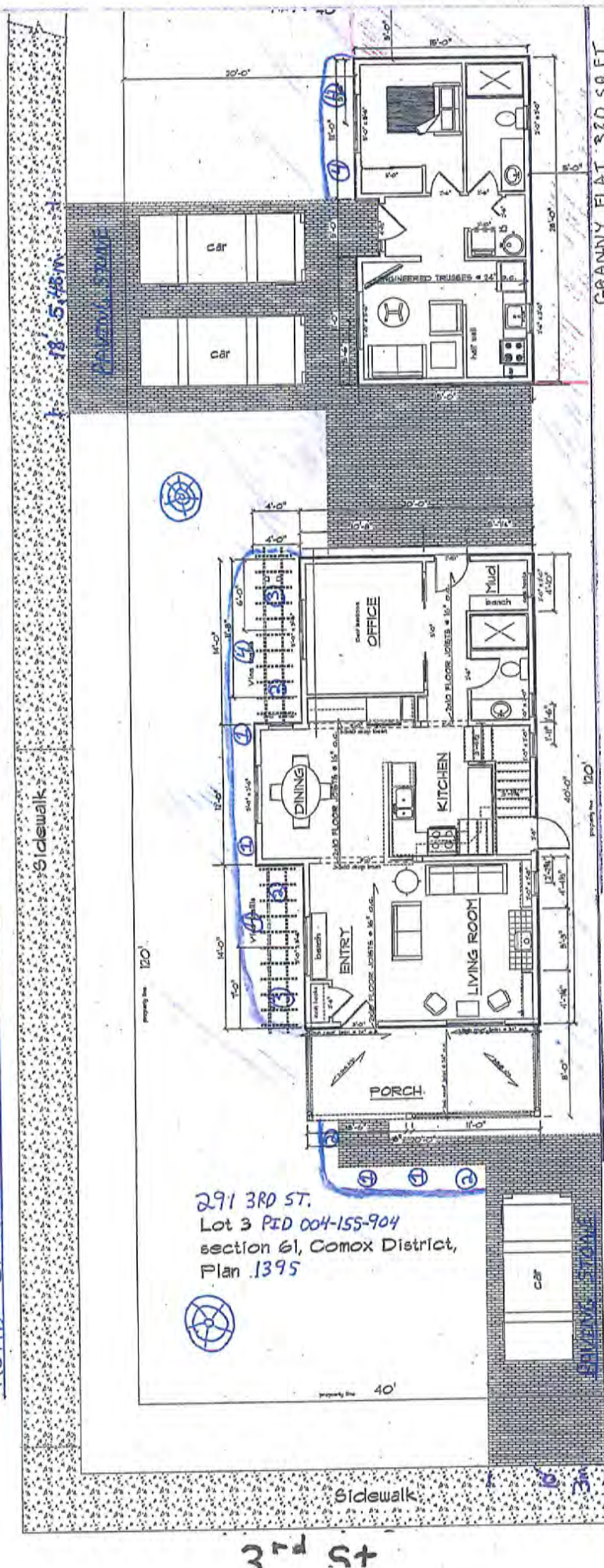


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|                         |        |
|-------------------------|--------|
| CUSTOM MADE FIR FENCING | = 2000 |
| GARDEN BEDS             | = 400  |
| LAWN AREA               | = 2000 |
| ROAD CRUSH              | = 250  |

Duncan Ave



SITE PLAN / MAIN FLOOR PLAN 846 SQ FT

| FLOOR                 | AREA              | RATIO    |
|-----------------------|-------------------|----------|
| GRANNY FLAT           | $= 39m^2$         |          |
| MAIN FLOOR            | $= 78m^2$         |          |
| 2 <sup>ND</sup> FLOOR | $= 74m^2$         |          |
| TOTAL                 | $= 446m^2$        |          |
| TOTAL FLOOR           | $\frac{181}{446}$ | $= 0.41$ |

The following minimum depths of topsoil or amended organic matter are required for all landscaped areas:

Shrubs – 450 mm  
Groundcover and lawn – 300 mm  
Trees – 300 mm around and below rootball

**To: City of Courtenay**

**Attn: Planning Department**

**RE: 291 3<sup>rd</sup> St. (lot 3)**

**Sustainability Evaluation Checklist**

**Land use**

- The proposed home will blend in with the character of the neighbourhood while adding a mix of colours and depths adding to the old orchard scenery.
- Having a home so close to town and parks will reduce the need for vehicle traffic and will promote healthier ways of transportation.

**Building Design**

- Designed to fit into the Old Orchard this home will appear to be heritage but will be built with modern materials and practices to ensure longevity low maintenance and energy efficiency.
- Steep roof lines, multiple siding treatments and refreshing colour scheme are just some of the treatments proposed

**Transportation**

- Located next to public transit and one block from downtown and parks this will be a pedestrian haven

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CITY OF COURTENAY



### **Infrastructure**

- The yard will be landscaped with a mixture of flower beds, grass, and a vegetable garden along with a permeable driveway to promote ground water recharging.
- The parking areas will be developed using porous materials or will be graded in a manner that will retain rain water on the property and not into the storm system


### **Character and Identity**

- This home is situated on it's lot within the City set backs retaining a pleasant view corridor

### **Environmental Protection and Enhancement**

- Our intention is to plant one or two fruit trees in the front yard in keeping with the old orchard.

**Croonen Construction Co. Ltd.**



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**To: City of Courtenay**

**Attn: Planning Department**

**Affordable Housing Policy**

**In reference to: lots 3 + 4 3<sup>rd</sup> St.**

Our intention for this application is to construct new homes at the above addresses that blend into the Old Orchard area, returning a heritage "*looking*" home to a site where they once stood. I feel our designs will be a complement to the neighbourhood and city. I believe we have captured every aspect of the Old Orchard OCP, and with our successful rezoning from CD9 to R-2B, we can build carriage homes to help increase the density of the downtown core while providing affordable housing in a great area. Whether the carriage home is used as a mortgage helper to make the home more affordable or used for care of extended family, it's good for all involved. This area with it's proximity to every amenity is ideal for this situation. A person with limited income could easily live there with no need for a vehicle, being able to walk into town or to catch a bus from less than a block away. I also think this project will be great for seniors, being so close to the Evergreen Center, Native Son's Hall and Legion to name a few.

Peter Croonen/Croonen Construction

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OCT 23 2012  
CITY OF COURTENAY

# THE CORPORATION OF THE CITY OF COURTENAY

## REPORT TO COUNCIL

FILE#: 3220-20-3610 Christie Parkway

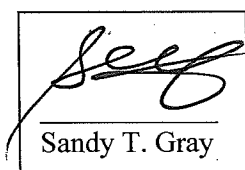
FROM: Director of Operational Services

DATE: January 3, 2013

**SUBJECT: Statutory Right of Way  
Lot 2 DL Comox District Plan VIP66485**

### C.A.O. COMMENTS/RECOMMENDATION:

That the recommendation of the Director of Operational Services be accepted.

  
Sandy T. Gray

### RECOMMENDATION:

That Council approve the Statutory Right of Way pertaining to Lot 2 DL Comox District Plan VIP66485; and

That the Mayor and Director of Legislative Services be authorized to sign the Statutory Right of Way document.

### PURPOSE:

To approve the Statutory Right of Way between the City and 0901090 BC Ltd. to Lot 2 DL Comox District Plan VIP66485, for the property located at 3610 Christie Parkway.

### BACKGROUND:

Council must authorize the Mayor and the Director of Legislative Services to sign all legal documents and this SRW, therefore, requires an approval by Council.

An existing SRW (in the name of BC Highways) storm ditch was bisecting the existing lot. As part of business expansion the ditch was filled and storm water rerouted along Christie Parkway and a new drainage course. The existing SRW must be released and new SRW in favour of the City in the new location approved.

### DISCUSSION:

A copy of the Statutory Right of Way Plan is attached. The City required the property owner to enter into an agreement for a Statutory Right of Way over Lot 2 DL Comox District Plan VIP66485 for the purpose of storm water drainage.

**FINANCIAL IMPLICATIONS:**

At this time there are no financial implications.

**STRATEGIC PLAN IMPLICATIONS:**

No reference.

**OCP SUSTAINABILITY REFERENCE:**

No reference.

**REGIONAL GROWTH STRATEGY REFERENCE:**

No reference.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Lagan', is written over the printed name.

Kevin Lagan, P. Eng.  
Approving Officer

RAP/sp  
Encl.

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Christina Reed, Barrister & Solicitor

YOUNG ANDERSON

1616 - 808 Nelson Street

Vancouver

BC V6Z 2H2

Phone: (604) 689-7400

File: 62-50

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

024-006-041

LOT 2 DISTRICT LOT 82 COMOX DISTRICT PLAN 66485

Deduct LTSA Fees? Yes ☒

STC? YES ☐

3. NATURE OF INTEREST

Statutory Right of Way

CHARGE NO.

ADDITIONAL INFORMATION

over part in plan EPP17506

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.

(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

0901090 B.C. LTD., INC. NO. BC0901090

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

THE CORPORATION OF THE CITY OF COURTENAY

A MUNICIPAL CORPORATION INCORPORATED UNDER THE LOCAL GOVERNMENT ACT

830 CLIFFE AVENUE

COURTENAY

V9N 1J7

BRITISH COLUMBIA

CANADA

Incorporation No

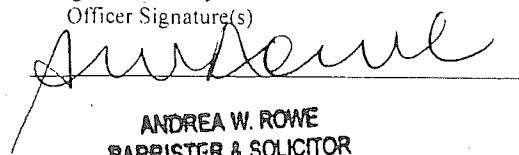
N/A

7. ADDITIONAL OR MODIFIED TERMS:

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)



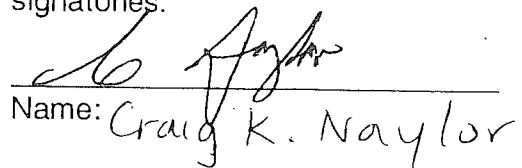
ANDREA W. ROWE  
BARRISTER & SOLICITOR  
#201 - 467 Cumberland Rd.  
Courtenay, BC V9N 2C5  
Ph: 250-334-4461

Execution Date

| Y  | M  | D  |
|----|----|----|
| 12 | 12 | 17 |

Transferor(s) Signature(s)

0901090 B.C. LTD. by its authorized signatories:

  
Name: Craig K. Naylor

Name:

(as to both signatures)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

**Execution Date**

Transferor / Borrower / Party Signature(s)

THE CORPORATION OF THE CITY  
OF COURTENAY by its authorized  
signatories:

Mayor: Larry Jangula

Director of Legislative Services:  
John Ward

COPY

(as to both signatures)

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

TERMS OF INSTRUMENT - PART 2

STATUTORY RIGHT OF WAY

THIS AGREEMENT made the 9th day of October, 2012.

BETWEEN:

0901090 B.C. LTD., Inc. No. BC0901090  
#503 – 1006 Beach Avenue  
Vancouver, BC V6E 1T7

(hereinafter called the "Grantor")

AND:

THE CORPORATION OF THE CITY OF COURTENAY  
a municipal Corporation under the *Community Charter*  
830 Cliffe Avenue  
Courtenay, BC V9N 2J7

(hereinafter called the "City")

WHEREAS:

- A. The Grantor is the owner of certain land and premises situate in the City of Courtenay, in the Province of British Columbia, and more particularly described as:

Parcel Identifier: 024-006-041  
Lot 2 District Lot 82 Comox District Plan VIP66485

(hereinafter called the "Lands");

- B. The Grantor has agreed to grant to the City a statutory right of way to facilitate the construction, installation, improvement, extension, removal, alteration, repair, maintenance, operation, replacement and use of certain works, including all appurtenances ancillary and incidental thereto, all generally described as follows: All pipes, valves, fittings, ditches, conduits, culverts, facilities and appurtenances necessary or convenient for the carrying of storm drainage as part of the Grantee's system of drainage works (the "Works");
- C. This statutory right of way is necessary for the operation and maintenance of the City's undertaking.

THIS AGREEMENT is evidence that, pursuant to s. 218 of the *Land Title Act*, and in consideration of ONE DOLLAR (\$1.00) paid by the City to Grantor, and other good and valuable consideration

(the receipt and sufficiency of which the Grantor hereby acknowledges), the Grantor grants to and covenants with the City as follows:

1. The Grantor hereby grants, conveys and confirms to the City in perpetuity the full, free and uninterrupted right, liberty, easement and statutory right of way ("Statutory Right of Way") for the City, its officers, employees, contractors and agents, in common with the Grantor, at all times hereafter from time to time at their will and pleasure to enter, go, be on, pass and repass, with or without vehicles, personal property and equipment, upon, over, under and across that portion of the Lands outlined in heavy black on the explanatory plan of statutory right of way certified by Bruce V. Lewis, B.C.L.S., on the 8<sup>th</sup> day of January, 2012 and deposited in the Victoria Land Title Office ("LTO") under number EPP17506 (the "Right of Way Area") a reduced paper print copy of which plan is attached hereto as Schedule "A" (the "Plan") to:
  - (a) construct and install the Works upon the Right of Way Area and to remove, replace, repair, alter, maintain clean, inspect, patrol and operate the Works from time to time in the City's discretion;
  - (b) have unobstructed access to and from the Right of Way Area at any and all times;
  - (c) establish grades and levels upon the Right of Way Area;
  - (d) excavate or otherwise alter the contours of the Right of Way Area and to backfill trenches on the Right of Way Area provided such excavation or alteration does not adversely affect the balance of the Grantor's Lands;
  - (e) make surveys and tests;
  - (f) establish grades and levels;
  - (g) remove from the Right of Way Area such structures, improvements, fixtures, fences, gates, trees, shrubs, plants, vehicles, mobile homes, storage facilities and other obstructions whatsoever as, in the City's reasonable opinion, is necessary in order to construct, install, remove, repair, alter, operate, maintain clean, inspect, patrol or replace the Works;
  - (h) store upon the Right of Way Area all vehicles, equipment, machinery, materials or other moveable property of any description necessary to construct, install, remove, repair, operate, alter, maintain, inspect, clean or replace the Works; and
  - (i) do all other things on the Right of Way Area as may be reasonably necessary, desirable or incidental to the Works.

2. **Grantor's Obligations** - The Grantor must:



- (a) not do or permit to be done anything in the Right of Way Area which in the opinion of the City, acting reasonably, may interfere with, injure or impair the operating efficiency of, or obstruct access to or the use of, the Right of Way Area, the Works or the rights granted under this Statutory Right of Way;
- (b) trim or, if the City requires, permit the City to trim or cut down any tree or other growth on the Right of Way Area which in the opinion of the City constitutes or may constitute a danger, impairment or obstruction to the Works or to those using the Right of Way Area in connection with the Works;
- (c) permit the City to peaceably hold and enjoy the rights hereby granted;
- (d) permit the City to:
  - (i) maintain and clean the surface of the Right of Way Area and remove grass and other growth from the surface of the Right of Way Area to the extent required for the construction and maintenance of the Works; and
  - (ii) to do all other things in the Right of Way Area which in the reasonable opinion of the City are reasonably necessary for the safe use and preservation of the Right of Way Area for the purposes of the Works and the Statutory Right of Way;
- (e) maintain, care for, keep clean from garbage and noxious debris, and provide suitable landscaping, where applicable, for those Works within the Right of Way Area that are not normally maintained by the Municipality including but not limited to storm drainage system inlets and outlets.
- (f) not place, install or construct any building, structure, mobile or manufactured home or other improvement (including any paving, walls or fences) on the Right of Way Area;
- (g) that notwithstanding section 2(a) or (f), because the Owner has, as of the date of executing this Agreement, a lock block retaining wall or similar improvement (the "Obstruction") already located on the Right of Way Area, the Owner is not required by this Agreement to remove the Obstruction, but if the Obstruction is removed for any reason, the Obstruction or any part of it may not be relocated on the Right of Way Area and if for any reason the City may need to access the Works, the City may move the Obstruction, after which the City will relocate the Obstruction on another part of the Lands. In no event is the City responsible for any repair, maintenance or replacement of any part of the Obstruction;
- (h) not carry on blasting on or adjacent to the Right of Way Area without the City's approval;

- (i) not diminish or increase the soil cover over any Works installed in the Right of Way Area without the City's approval;
- (j) at its own expense, do or cause to be done all acts necessary to grant priority to this Statutory Right of Way over all charges and encumbrances which are registered, or pending registration, against title to the Land, in the LTO, save and except those as have been approved in writing by the City or have been granted in favour of the City; and
- (k) at its own expense, do or execute or cause to be done or executed all such further and other lawful acts, deeds, things, conveyances and assurances whatsoever for better assuring to the City the rights, liberties and statutory right of way hereby granted.

3. **City's Obligations** - The City must:

- (a) do all things hereby authorized to be done by it over, through, under and upon the Right of Way Area in a good and workmanlike manner so as to cause no unnecessary damage or disturbance to the Grantor, the Lands or Right of Way Area or to any improvements thereon; and
- (b) not bury, without the prior written consent of the Grantor, construction debris or rubbish in excavations or backfill.

4. **No Obligation to Maintain** - No right herein granted to or reserved by the City requires the City to clean, repair or maintain the Works or the Right of Way Area, except as expressly provided herein.

5. **City's Rights** - The City:

- (a) is entitled to peaceably hold and enjoy the rights, liberties and Statutory Right of Way hereby granted without hindrance, molestation or interruption by the Grantor or any person, firm or corporation claiming by, through, under or in trust for the Grantor;
- (b) in its sole discretion may at any time remove any or all of the Works installed by the City in, upon or under the Right of Way Area, all of which remain chattels and the property of the City, notwithstanding that they may be annexed or affixed to the freehold;
- (c) on default by the Grantor of any of its obligations under this Agreement, may, but is not obliged to, rectify the default, provided that, except in an emergency, the City must first give 20 days prior notice to the Grantor specifying the default

and requiring it to be remedied. The Grantor shall reimburse the City for its reasonable, out of pocket expenses incurred in remedying such a default; and

- (d) despite section 5(b), if the City abandons, releases or discharges the Statutory Right of Way, the City is not responsible or obligated in any way to remove or pay for the cost of removal of any Works from the Right of Way Area.
- 6. **No Waiver** - No waiver of default by either party is effective unless expressed in writing by the party waiving default, and no condoning, overlooking or excusing by either party of a previous default of the other is to be taken to operate as a waiver of any subsequent default or continuing default, or to in any way defeat or affect the rights and remedies of the non-defaulting party.
- 7. **Discretion** - Wherever in this Agreement the approval of the City is required, some act or thing is to be done to the City's satisfaction, the City is entitled to form an opinion, or the City is given a sole discretion:
  - (a) the relevant provision is not deemed to have been fulfilled or waived unless the approval, opinion or expression of satisfaction is in writing signed by the City's Director of Operational Services ("Engineer");
  - (b) the approval, opinion or satisfaction is in the discretion of the Engineer acting reasonably in accordance with municipal engineering practice;
  - (c) any discretion of the Engineer is not subject to public law duties and the principles of procedural fairness and the rules of natural justice have no application; and
  - (d) the sole discretion of the City is deemed to be the sole, absolute and unfettered discretion of the City and the principles of procedural fairness and the rules of natural justice have no application.
- 8. **No Effect on Powers** - This Agreement does not:
  - (a) affect or limit the discretion, rights, duties or powers of the City under the common law or any statute, bylaw, or other enactment;
  - (b) affect or limit the common law or any statute, bylaw or other enactment applying to the Lands; or
  - (c) relieve the Grantor from complying with the common law or any statute, bylaw or other enactment.
- 9. **Indemnity** - The Grantor covenants to and does hereby indemnify and save harmless the City, its elected officials, officers, and employees at all times from all losses,

damages, actions, suits, claims, demands, costs, expenses, fees and liabilities of any nature whatsoever by whomsoever brought, made or suffered for which the City is or may become liable, incur or suffer by reason of any injury to person (including death) or loss or damage to property or economic loss arising directly or indirectly from a breach or non-performance by the Grantor of its covenants or obligations in this Agreement, or arising directly or indirectly, or from any wrongful act, omission or negligence of the Grantor in, on, around and about the Lands, the Right of Way Area, or in any way connected to or relating to the Works.

10. **Notice** - Any notice to be given pursuant to this Agreement must be in writing and may be delivered personally or sent by prepaid mail. The addresses of the parties for the purpose of notice are the addresses hereinbefore set out. If notice is delivered personally, it may be left at the relevant address in the same manner as ordinary mail is left by Canada Post and is to be deemed given when delivered. If notice is mailed, it is to be deemed given 5 days after mailing by deposit at a Canada Post mailing point or office. In the case of any strike or other event causing disruption of ordinary Canada Post operations, a party giving notice must do so by personal delivery as provided in this section. Any party may at any time give notice in writing to the other of any change of address and from and after the receipt of notice the address therein specified is to be deemed to be the address of such party for the giving of notice.
11. **Severance** - If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion is to be severed and the decision that it is invalid does not affect the validity of the remainder of this Agreement.
12. **Entire Agreement** - No amendment of this Agreement, is valid or binding unless in writing and executed by the parties.
13. **Headings** - The headings in this Statutory Right of Way are inserted for reference and convenience only and must not be used to construe or interpret the provisions hereof.
14. **Schedules** - Schedule "A", being a reduced copy of the Plan delineating the Right of Way Area, forms part of this Agreement.
15. **Interpretation** - In this Agreement:
  - (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
  - (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;

- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (f) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (g) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (h) time is of the essence;
- (i) all provisions are to be interpreted as always speaking;
- (j) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (k) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided; and
- (l) where the word "including" is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word "including".

16. **Interest In Lands and Enurement** - The Statutory Right of Way, and licence granted hereby, severally run with the Lands and each and every part into which the Lands may be subdivided or consolidated by any means (including subdivision plan, reference or explanatory plan, strata plan, bare land strata plan or lease), but no part of the fee of the Lands passes to or is vested in the City under or by this Agreement and the Grantor may fully use the Right of Way Area and Lands subject only to the common law and the rights, obligations and restrictions expressly set out in this Agreement. This Statutory Right of Way enures to the benefit of and is binding on the parties notwithstanding any rule of law or equity to the contrary.

**Execution** - As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

EXPLANATORY PLAN OF STATUTORY RIGHT OF WAY  
OVER: PART OF LOT 2 DISTRICT LOT 82 COMOX  
DISTRICT PLAN VIP66485  
PURSUANT TO SECTION 99(1)(e) OF THE LTA  
BCGS 92 F.066

PLAN EPP17506

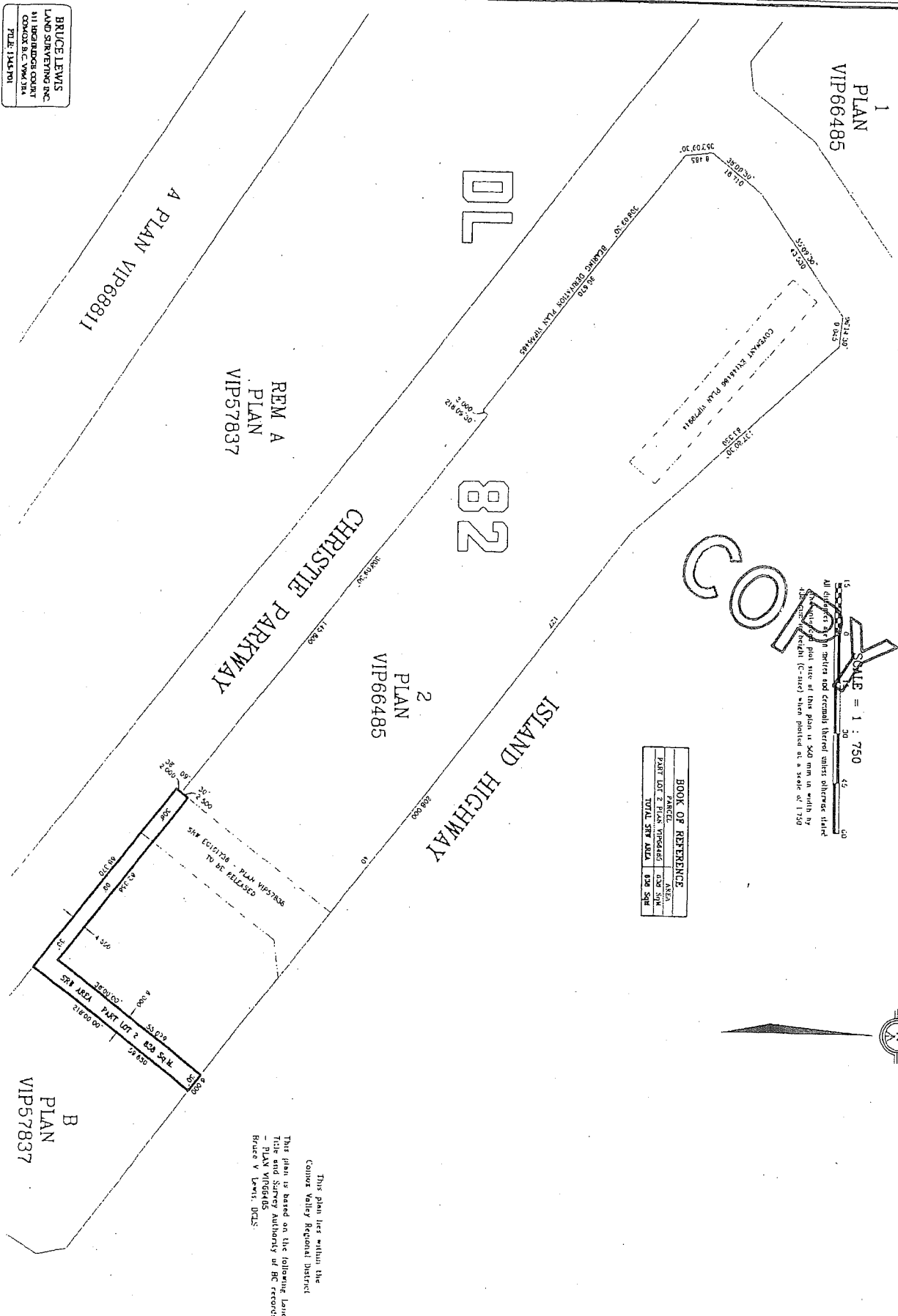
## LEGEND

Measurements are as shown on Plan VIP66485  
S.M. = Square Metres

SCALE = 1 : 750

All dimensions in metres and decimal thereof unless otherwise stated.  
The area of the plot site of this plan is 540 m<sup>2</sup> in width by  
4.0 m in depth (C-size) when plotted at a scale of 1:750

| BOOK OF REFERENCE |         |         |          |
|-------------------|---------|---------|----------|
| PART 1            | PART 2  | PART 3  | PART 4   |
| PART 5            | PART 6  | PART 7  | PART 8   |
| PART 9            | PART 10 | PART 11 | PART 12  |
| PART 13           | PART 14 | PART 15 | PART 16  |
| PART 17           | PART 18 | PART 19 | PART 20  |
| PART 21           | PART 22 | PART 23 | PART 24  |
| PART 25           | PART 26 | PART 27 | PART 28  |
| PART 29           | PART 30 | PART 31 | PART 32  |
| PART 33           | PART 34 | PART 35 | PART 36  |
| PART 37           | PART 38 | PART 39 | PART 40  |
| PART 41           | PART 42 | PART 43 | PART 44  |
| PART 45           | PART 46 | PART 47 | PART 48  |
| PART 49           | PART 50 | PART 51 | PART 52  |
| PART 53           | PART 54 | PART 55 | PART 56  |
| PART 57           | PART 58 | PART 59 | PART 60  |
| PART 61           | PART 62 | PART 63 | PART 64  |
| PART 65           | PART 66 | PART 67 | PART 68  |
| PART 69           | PART 70 | PART 71 | PART 72  |
| PART 73           | PART 74 | PART 75 | PART 76  |
| PART 77           | PART 78 | PART 79 | PART 80  |
| PART 81           | PART 82 | PART 83 | PART 84  |
| PART 85           | PART 86 | PART 87 | PART 88  |
| PART 89           | PART 90 | PART 91 | PART 92  |
| PART 93           | PART 94 | PART 95 | PART 96  |
| PART 97           | PART 98 | PART 99 | PART 100 |



This plan lies within the  
Comox Valley Regional District  
This plan is based on the following land  
Title and Survey Authority of BC records  
Bruce V. Lewis, DCLS

BRUCE LEWIS  
LAND SURVEYING INC.  
111 HERRING GLEN  
COMOX B.C. V9A 1K6  
TEL: 253-7801

LAND TITLE ACT  
FORM C (Section 233) RELEASE  
GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 1 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Swift Datto Law Corporation  
Barristers and Solicitors  
201 - 467 Cumberland Road  
Courtenay

BC V9N 2C5

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

024-006-041

LOT 2 DISTRICT LOT 82 COMOX DISTRICT PLAN VIP66485

STC? YES ☐

3. NATURE OF INTEREST BEING RELEASED

Statutory Right Of Way

CHARGE NO.

EG161736

ADDITIONAL INFORMATION

4. TERMS  
(c) ☒ RELEASE

The charge described in item 3 is released or discharged as a charge on the land described in item 2.

5. TRANSFEROR(S):

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA AS REPRESENTED  
BY THE HONOURABLE MINISTER OF TRANSPORTATION AND HIGHWAYS

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

Registered owner

7. ADDITIONAL OR MODIFIED TERMS:

nil

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Execution Date

| Y  | M | D |
|----|---|---|
| 12 |   |   |

Transferor(s) Signature(s)

Her Majesty the Queen In Right of  
the Province of British Columbia as  
represented by the Honourable  
Minister of Transportation and  
Highways:

Per: \_\_\_\_\_

Per: \_\_\_\_\_

## OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

93 DE -9 08 54 9

EG161736

Title Act  
C  
219.81)  
of  
British Columbia  
**GENERAL INSTRUMENT**

(This Area for Land Title Office use)

Page 1 of 4 pages

1. Application: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

CHESTERLEY & DREYER  
1984 Comox Avenue  
Comox, B.C. V9M 3M7  
c/o VICTRO REGISTRY SERVICES

*Deandy Johnson*  
Agent (384-6732)

2. Parcel Identifier and Legal Description of Land:\*

(PID) (Legal Description)  
**SEE SCHEDULE**

3. Nature of Interest:\*

Document Reference  
(page and paragraph)

Person Entitled To Interest

- Statutory Right of Way  
Parts on Plan *VIP 37838*

Entire Document

Transferee 12709993 454420 CHE-FRI .00

4. Terms: Part 2 of this instrument consists of (select one only)

- (a) Filled Standard Charge Terms  
(b) Express Charge Terms  
(c) Release

X

D.F. No.

Annexed as Part 2

There is no Part 2 of this instrument.

A selection of (a) includes any additional or modified terms referred to in item 7 or in a schedule annexed to this instrument.  
If (c) is selected, the charge described in item 3 is released or discharged as a charge on the land described in item 2.

5. Transferor(s):\*

**UPPER ISLAND DEVELOPMENT LTD. (INC. No. 46,604)**

6. Transferee(s): (including occupation(s), postal address(es) and postal code(s))\*

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA  
AS REPRESENTED BY THE HONOURABLE MINISTER OF TRANSPORTATION AND  
HIGHWAYS, Parliament Buildings, in the City of Victoria, in the Province of British Columbia**

7. Additional or Modified Terms: \* NONE

8. Execution(s):\*\* This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Execution Date

Officer Signature(s)

| Y  | M  | D  |
|----|----|----|
| 93 | 11 | 19 |

Transferor(s) Signature(s)

UPPER ISLAND DEVELOPMENT LTD. by its authorized signatory

*HR Christie*  
HAROLD RODNEY CHRISTIE

*Don A. Schaffrick*  
Donnis A. Schaffrick,  
Barrister and Solicitor,  
1984 Comox Avenue,  
Comox, B.C.  
V9M 3M7

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act R.S.B.C. 1979, c. 116, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

- \* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.  
\*\* If space insufficient, continue executions on additional page(s) in Form D.



Land Title Act  
Form E

## SCHEDULE

Page 2 of 4

Enter the required information in the same order as the information must appear on the Freehold Transfer form, Mortgage form or General Document form.

Parcel Identifier Number \_\_\_\_\_

(legal description)

All those parts of Lots A and D and that part of Lot E, District Lot 82, Comox District, Plan VIP 57837, shown within the outline on a Statutory Right of Way Plan through part of Lots A, D and E, District Lot 82, Comox District, Plan VIP 57838, the survey for which was completed by Robert Williams, BCLS on the 27th day of October, 1993, a print of which is attached hereto.



**TERMS OF INSTRUMENT**

**WHEREAS** the Grantor is the registered owner of ALL AND SINGULAR that certain parcel or tract of land situate lying and being in the Courtenay Assessment Area, in the Province of British Columbia and more particularly known and described as:

All those parts of Lots A and D and that part of Lot E, District Lot 82, Comox District, Plan VIP \_\_\_\_\_, shown within the outline on a Statutory Right of Way Plan through part of Lots A, D and E, District Lot 82, Comox District, Plan VIP \_\_\_\_\_, the survey for which was completed by Robert Williams, BCLS on the 27th day of October, 1993, a print of which is attached hereto.


**AND WHEREAS** to facilitate the maintenance and alteration of underground pipes and appurtenances required by the Grantee, the Grantor has agreed to grant to the Grantee a Statutory Right of Way.

**WITNESSETH THAT**, in consideration of the sum of ONE DOLLAR (\$1.00) now paid by the Grantee to the Grantor, the receipt whereof is hereby acknowledged, the Grantor doth hereby grant, convey and confirm unto the Grantee, her heirs and assigns, forever, the right at any time to enter upon the lands hereinafter described for the purposes of laying down, constructing, ditching, excavating or installing sewers, drains, pipes, flumes or any form of installation deemed necessary, practical or expedient in, under and upon the said lands to carry drainage water on to, over, through or under the lands hereinafter described, and of keeping and maintaining them at all times in good condition and repair; and for every such purpose the Grantee shall have access to the said lands at all times by her servants, employees and workmen subject to the Right of the Grantor to the free use of the surface of the lands hereinafter described.

**IT IS MUTUALLY UNDERSTOOD**, agreed and declared by and between the parties hereto that this agreement shall be construed as running with the land, but that no part of the fee or the soil or the lands hereinafter described shall pass to or be vested in the Grantee under or by these presents.

THE LANDS affected by this Right of Way are more particularly described as follows: *m*

*m* that part outlined within the heavy dark outline on the copy of the Plan of Statutory Right of Way through part of all those parts of Lots A and D and that Part of Lot E, District Lot 82, Comox District, Plan VIP \_\_\_\_\_, shown within the outline on a Statutory Right of Way Plan through part of Lots A, D and E, District Lot 82, Comox District, Plan VIP \_\_\_\_\_, the survey of which was completed by Robert Williams, BCLS on the 27th day of October, 1993, a print of which is attached hereto. *p*



Page 4 of 4 pages

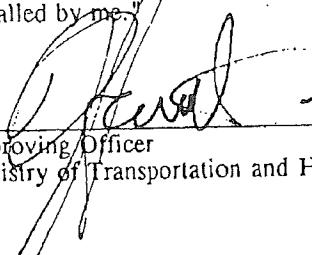
~~THE LANDS ATTACHED BY THE RIGHT OF WAY ARE NOT EXCLUDED FROM THE RIGHT OF WAY~~

~~AND ARE NOT INCLUDED WITHIN THE HEAVY DARK OUTLINE ON THE COPY OF THE PLAN OF STATUTORY RIGHT OF WAY~~  
~~THROUGH PARK OR INSERT LOG DESCRIPTION~~

**THIS RIGHT OF WAY** is necessary for the operation and maintenance of the Grantee's undertaking.

**THIS INDENTURE** and everything herein contained shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

"This is the instrument creating the Right of Way entered into under Section 214 of the Land Title Act by the registered owners referred to herein and shown on the print of the plan annexed hereto and initialled by me."

  
\_\_\_\_\_  
Approving Officer  
Ministry of Transportation and Highways

END OF DOCUMENT

LAND TITLE ACT  
(NOTICE DECLINING TO REGISTER)

Pending Plans VIP57831  
Application and VIP57838

Our tube F1

Land Title Office, Victoria, B. C.

Date Dec. 30, 1993

IN THE MATTER of the above application to register a subdivision plan of  
part of Lots B and C, Plan 2119

PID NO(9) 006-638-583 006-630-359

Sir/Madam:

TAKE NOTICE that I refuse to effect registration in accordance with the tenor of the above application. My reason for such refusal and my requirements are as follows:

- ① Require BCGS number on plans
- ② That part of Lot B Plan 2119 SW of L&N RW should be labelled Remainder, on both plans
- ③ SRW Plan should read 'pursuant to Sec 113 LTM'
- ④ SRW Document EG161736
  - ✓ - #3 Nature of Interest - Statutory Right of Way should also indicate "parts on Plan"
  - ✓ - Form C signature block - incorrect spelling 'Development'
  - ✓ - Page 4 para 1 not completed with legal description

01/14/94 DB0366 DEFECT 10.00

AND FURTHER TAKE NOTICE that under the provisions of Section 298 of the Land Title Act, this notice is deemed to have been received by you within ten days from the posting, which is the same as the date hereof; and that unless you comply with the provisions of Sections 288 and 289 of this Act, this application shall be deemed to be cancelled and void.

N.B. See print of Sections 288 and 289 on back hereof.  
Fee for this notice, \$10.00.  
Fee if application cancelled, \$10.00.

K.D. Jacques, Registrar

Per: Jan Orlicko

TO: Robert Williams, BCLS  
2204 McKenzie Ave.  
Comox, B.C.

AND  
Chesterlay & Dreyer  
1984 Comox Ave.  
Comox, B.C.  
via Victor

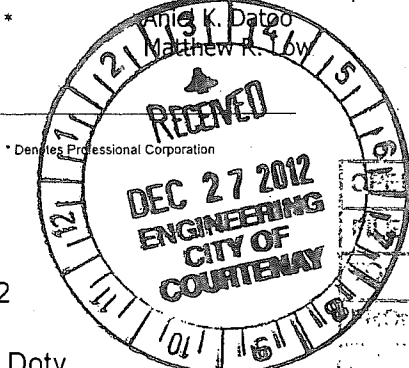
# SWIFT DATOO

## Law Corporation

Richard J. Swift, Q.C. \*  
Brian E. Hutcheson \*  
Andrea W. Rowe \*  
David A. McVea  
Beth Regehr

Azim N. Datto, Q.C. \*  
Christopher J. Kelsey\*

201 - 467 Cumberland Road  
Courtenay, BC V9N 2C5  
tel: 250-334-4461  
fax: 250-334-2335  
web: [www.swiftdatoo.com](http://www.swiftdatoo.com)  
email: [lawyers@swiftdatoo.com](mailto:lawyers@swiftdatoo.com)



\* Denotes Professional Corporation

|                                 |  |  |  |
|---------------------------------|--|--|--|
| OPERATIONAL SERVICES DEPARTMENT |  |  |  |
| RECEIVED                        |  |  |  |
| DATE                            |  |  |  |
| TIME                            |  |  |  |
| PRIORITY                        |  |  |  |
| COPIES TO:                      |  |  |  |
| MR.                             |  |  |  |
| RESP.                           |  |  |  |

December 27, 2012

Our file: 37922

Attention: Les Doty

City of Courtenay  
830 Cliffe Avenue  
Courtenay, BC V9N 2J7

Dear Sir:

BY COURIER

COPY

**RE: 0901090 BC Ltd. - Replacement of Statutory Right of Way  
Lot 2 DL 82 Comox District Plan VIP66485**

You will recall that a Statutory Right of Way exists on the subject lot; it was a requirement when the property was in the Regional District. The property is now part of the City of Courtenay and a replacement Statutory Right of Way is now being put in place.

We enclose both the new Statutory Right of Way for execution on behalf of the City and the Release of the old Statutory Right of Way. We are hoping that you will forward these to the appropriate Minister of Transportation and Highways authorities for execution by them. Also enclosed for your ease of reference is a copy of the Statutory Right of Way which is being released.

We undertake to register the Release, the new Statutory Right of Way and the Explanatory Plan on a concurrent basis.

We trust this is in order and look forward to hearing from you. **We will be pleased to arrange for pick-up by courier and ask that you call us as soon as the documents are ready.**

Yours truly,

**SWIFT DATOO LAW CORPORATION**

Per

ANDREA W. ROWE  
/sky  
Enc.

Direct E-Mail: [arowe@swiftdatoo.com](mailto:arowe@swiftdatoo.com)





# From the Board Table

Vancouver Island Regional Library

November 24, 2012

FOLP  
DATA



## Facilities Update

Vancouver Island Regional Library's 2010 Consolidated Facilities Master Plan and our Board Facilities Policy inform all of our facility decisions. Our Facilities Policy ensures that our facilities are designed to best meet community needs. Facility development is guided by the companion report (approved by our Board in June 2010) to our Consolidated Facilities Master Plan. A long-term funding plan for our facilities was approved by our trustees in June 2010 and put into effect with our subsequent budgets. The Consolidated Facilities Master Plan is available on our website ([www.virl.bc.ca](http://www.virl.bc.ca)) under About Us/Reports & Plans.



## Cortes Island Branch

In September, trustees voted to enter into a lease agreement subject to certain conditions being met with the Linnaea Farm Society for the operation of a library in the Roque Room of the former Linnaea School. Vancouver Island Regional Library and Linnaea Farm Society are currently waiting for the Strathcona Regional District to approve a rezoning bylaw which will rezone the land for use as a library. At a meeting on Cortes Island on November 14, members of the Cortes Island Advisory Planning Commission passed a motion recommending approval of the (zoning) application to add PL (public assembly) to ALS1.



## Cowichan Lake Branch

The original bids in response to the first call for tenders in September 2012 came in significantly over budget. The architect adjusted the scope of the project and it was retendered in November. Trustees voted to award construction of the new branch to Heatherbrae Construction for a maximum award value not to exceed \$1,000,487 (plus tax).



## Chemainus Branch

After public input from many residents of Chemainus, the Municipality of North Cowichan reconsidered their decision to locate the new branch in the parking lot of Waterwheel Park. The Municipality has stated they wish to locate the library on the site of the former fire hall. Vancouver Island Regional Library awaits confirmation in writing regarding the preferred site and whether the land will be donated.



## Nanaimo North Branch

Trustees awarded Century Group Inc. of Victoria, the tender to build the Nanaimo North Library Branch to be located at 6250 Hammond Bay Road in Nanaimo. The total project budget is just over \$8.6 million.

The construction project includes partial demolition of the existing building that houses the administrative staff of Vancouver Island Regional Library, renovations to the portion of the building remaining, and the addition of a new 17,600 square feet library space to the renovated building.



VANCOUVER ISLAND  
REGIONAL LIBRARY

[www.virl.bc.ca](http://www.virl.bc.ca)



The Nanaimo North Library is designed by Victoria architects Chow Low Hammond. It will feature large windows to take advantage of natural light, and will complement the mature evergreen trees that surround the site. Two meeting rooms will be available for public use; there will be room for programming for children and adults, and comfortable and quiet places for reading and study. Customers will be able to borrow books (including best sellers), DVDs, CDs, and magazines and download eBooks and eAudiobooks. Free internet and Wi-Fi access will also be available.

The Nanaimo North Library is anticipated to open in spring of 2014 and will serve residents in north Nanaimo, Lantzville and Nanoose.

### **Nanaimo Harbourfront Branch**

The Board of Trustees voted to ask the Regional District of Nanaimo to source funding to a maximum amount of \$9.5 million for the purchase and renovation of the Nanaimo Harbourfront Branch located at 90 Commercial Street in Nanaimo. This action, if approved by the electorate, will see an improved branch while maintaining costs at or below the present costs of leasing the premises. The purchase of the Nanaimo Harbourfront Branch will also provide a small amount of revenue to Vancouver Island Regional Library as part of the building is rented out. Over time this purchase will increase the library's equity on average \$380,000 per year, and in the long term will greatly reduce costs.

## **Performance Indicators**

At each Board meeting a number of performance indicators are shared with trustees in order to highlight the many activities that take place in the 38 branches of Vancouver Island Regional Library.

So far in 2012

- Our branches have been visited over 2.3 million times
- Our customers have borrowed almost 3.8 million items
- Our librarians have been asked for information over 57,000 times
- Our public internet stations have been used over 300,000 times
- Children have used our children's literacy stations almost 40,000 times
- Our librarians have offered over 2,400 free programs attended by almost 52,000 people

Your public library ... your community gathering place.

## **Branch Activities**

Following is a sample of the many programs and activities happening in our branches and communities.

### **Bowser Branch**

The popular story times held each month for children and caregivers are enjoying increased attendance. In October, customers learned about library programs and enjoyed refreshments during Customer Appreciation Day in celebration of Canadian Library Month. A dozen enthusiastic adults also enjoyed a session on eBooks, eReaders and the Library.



### **Campbell River Branch**

In September, over 150 people attended a presentation and slide show about wolves with Gary Allan and Tundra, a five-year-old female wolf-dog, who charmed everyone with her gentle manner. Gary Allen is from Sointula, and runs the Ambassador Wolf Program. He speaks to school children and community groups about wolves and their role in the environment.

### **Chemainus Branch**

In October, two foot care specialists gave a presentation about foot care and common foot problems, with a special focus on diabetic foot care. The program was very well received, with an in-depth discussion between the presenters and those in attendance.

### **Comox Branch**

Ongoing programs offered this fall at the Comox branch include eBook classes, storytimes, an adult book club and the creation of a weekly knitting group. Kale cookbook author Sharon Hanna led a discussion on growing, cooking and eating kale. Over 70 people attended!

Branch staff is working on a partnership with the Rotary Club of Comox and a local elementary school to create a Reading Buddies program. The program is aimed at children who have been identified by their teacher as having trouble reading and who are willing to participate in the program. They are partnered with Rotary volunteers at the library who show them how much fun reading can be. This program ran as a successful pilot last year with teachers noticing an increase in the reading level of their students.

For Halloween, both the Courtenay and Comox branches partnered with the Comox Valley Family Literacy Outreach Group to offer the Books for Treats program. Despite heavy rain, close to 70 children came to the Comox Branch to pick up a gently used book.

### **Courtenay Branch**

Twice a month the branch hosts eBook workshops and staff fields many one-on-one drop in sessions about eBooks and eReaders each week. Author readings are popular with a different author visiting each week. Sointula author Gary Allan and Tundra, a five-year-old female wolf-dog visited the library twice in October presenting to over 150 people at each session. The Halloween Books for Treats event welcomed 250 families and 125 books were given away. Books were donated by local Rotary members and by City of Courtenay employees who donated books they purchased with their jeans day money.

### **Cowichan Branch**

A new monthly program, Music in the Library was launched in September. Local musicians perform at the branch to the delight of customers. A handbell ensemble performed in September and a local fiddle player performed in October.

During Homelessness Action Week in October, the branch joined forces with other organizations in the Cowichan Valley to raise awareness about homelessness. In Mill Bay and Duncan, library staff helped to fill a tent full of supplies to help those who live outdoors. Many stories were shared about the importance of the library by people who have experienced homelessness. As a direct result of this outreach work, the library plans to partner to offer a Ready to Rent program for Cowichan Valley residents that have had difficulty finding or maintaining housing. Community organizations were pleased to learn about the adult transitional cards available at Vancouver Island Regional Library.



### **Cowichan Lake Branch**

Tuesday Talk Nights (formerly Open Mike Poetry Night) are a fun, informative and informal gathering of people who love sharing the spoken word. Talk Nights draw local authors, songwriters and poets, and members of the community who share their favourite piece of prose or just a receptive ear.

Almost 40 adults and children packed the branch on October 27 to enjoy a Halloween puppet show and sing-along.

### **Gabriola Island Branch**

The newly expanded Gabriola Island branch celebrated its official opening on a sunny day in late October. Since the branch opened for business in mid-September, Gabriola Island residents have been visiting in droves. People are thrilled with the bright and cheerful space and new customers are signing up for cards so they can enjoy all of the new books, music and movies on the shelves.

### **Haida Gwaii Branches**

This fall the four libraries in Haida Gwaii (Masset, Port Clements, Queen Charlotte and Sandspit) all provided community storytimes with two offering Halloween-themed events.

Staff was also happy to report that no library material was lost and no damage was sustained in the 7.7 earthquake that took place on October 27.

### **Ladysmith Branch**

Children's storytime is offered on Thursday afternoons for children aged to 0 – 5 years. Local kindergarten classes enjoy touring the library and participating in storytime.

### **Nanaimo Harbourfront Branch**

Nanaimo Harbourfront continues to host a series of genealogy workshops, covering topics including How to Begin, Canadian Sources, and United Kingdom sources.

Many Harbourfront customers use the Resume Builder software and information resources at the branch to help with job searches. Noticing the popularity of these tools, a customer services librarian has started to hold a series of workshops on resume building, and developing and improving job search skills.

In October and November the branch hosted almost twenty author events and workshops as part of its outreach activities.

### **Nanaimo Wellington Branch**

Storytime sessions for toddlers and babies remain very popular and are fully booked up until the end of the year. Lego Club Saturday is a big hit and the busy builders' creations on display in the branch create a lot of interest.

The Friends of the Library, Wellington Branch held a Customer Appreciation Tea at the end of October and raffled off a quilt to raise funds for the branch.

### **Parksville Branch**

Customers enjoyed refreshments and Phil Taylor's "close up" magic during customer appreciation day in celebration of Canadian Library Month in October.

Fall programming is fully underway with offerings including Thrilling Tales: Stories for Adults, and an intergenerational program, Saturday Stitching. A capacity crowd attended Van Clayton Powell's presentation about his book *You are NOT What You Eat*.

An evening Introduction to Book Clubs program has led to the formation of a self-directed book club that meets regularly at the branch.

### **Port Alberni Branch**

Fall programs for children began with a Puppet Show Kick-off in September. Puppet shows always draw a large crowd in Port Alberni. Other programs included a Bear Aware program designed to prevent and reduce conflict between people and bears; and the always popular Introduction to eBooks and eReaders class.

The branch celebrated its 40th birthday on October 23 with over 100 people stopping by with birthday greetings.

### **Port McNeill Branch**

The branch has started a monthly evening Pajama Storytime where children and their parents are encouraged to come to the library in their pajamas for a special, themed storytime. This program is an opportunity for parents, who may not have had a chance to visit the library as a family during the day, to learn about the library's services and programs.

### **Port Renfrew Branch**

The branch continues to review its collection in preparation for its relocation to Port Renfrew's recreation centre in 2013.

Thanks to the library's Summer Reading Club program, one of the new students at the Port Renfrew Elementary School has found the transition to school easier. As an enthusiastic library user, he is keen to show his classmates how the library works.

The branch recently created a display of First Nations books for children that has been well received.

### **Qualicum Beach Branch**

Staff has been very busy offering weekly storytimes and babytimes; Lego night; Dad's night out; introduction to eBooks sessions; and a brand new book club that is "the buzz of the town."

The Library Manager and Customer Services Librarian spoke to over 150 people at the Dynamic Learning Environments Conference in October about library activities, services and community partnerships. Library Manager Eileen Gillette presented on early literacy learning at the PacificCARE Keys to Literacy event. She provided information about early literacy programs, services and eResources available at the library to over 25 child care providers and elementary teachers. Of special interest were Tumblebooks and Homework Help databases.



### **Sidney/North Saanich Branch**

October is "art month" on the Saanich Peninsula. The library hosted an open house featuring library staff artists who talked about and demonstrated their work and creative process. The branch also showcased a display of handmade and bound artist books made by members of the local chapter of the Canadian Bookbinders and Book Artists Guild. The local Friends of the Library chapter hosted author Anny Scoones who read from her delightful books about North Saanich's Glamorgan Farm.

The branch celebrated its 30th anniversary on October 3. Trustees Melissa Hailey and Elsie McMurphy attended the celebration and exchanged remembrances with Friends of the Library, customers and staff.

Two member-led writers groups have begun monthly meetings at the branch after local writers who wanted to connect with other writers asked if the library could play a role. A critique group involves members reading and commenting on each other's writing, and a business of writing group discusses topics including getting published, marketing your book, distribution etc. The library helps promote the groups, provides meeting room space and arranges for occasional expert speakers.

### **Sooke Branch**

This fall, regular storytime and babytime programs have been well attended and have welcomed new participants. One-on-one eBook consultations with customers have proved to be very successful as people learn more about the possibilities of the eLibrary.

Staff eagerly participated in Halloween events by dressing up and decorating the library. A "Help Haunt the Library" contest involved customers bringing in a mask of their own design to help decorate the branch and the chance to win a prize. The branch participated for the first time in the "Books for Treats" program and children happily selected a new or gently used book to add to their goody bags. Library Manager Adrienne Wass set up a craft and display area at the very popular Safe Halloween community event allowing children to create elaborate artwork as a take-home souvenir.

### **South Cowichan Branch**

Canadian Library Month was celebrated with a display of books by Vancouver Island authors that proved to be very popular with customers. A new set of Mother Goose programs were met with high attendance. Adult programs this fall included two popular programs on health: one on natural approaches to the prevention of disease; and one for people changing to a gluten-free diet.

### **Woss Branch**

Customers enjoy the Introduction to eBooks and eReaders classes where they learn how to use the library's Kobo eReaders and how to download free eBooks from [www.virl.bc.ca](http://www.virl.bc.ca).

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2731

A bylaw to amend the Zoning Bylaw No. 2500, 2007

WHEREAS the Council has given due regard to the consideration given in Section 903 of the *Local Government Act*;

NOW THEREFORE the Council of the Corporation of the City of Courtenay in open meeting assembled enacts as follows:

1. This bylaw may be cited for all purposes as “**Zoning Amendment Bylaw No. 2731, 2013**”.
2. That “Zoning Bylaw No. 2500, 2007” be hereby amended as follows:
  - (a) By rezoning Lot 8, District Lot 157, Comox District, Plan VIP54769, as shown in bold outline on **Attachment A** which is attached hereto and forms part of this bylaw, from Residential One Zone (R-1) to Residential One S Zone (R-1S); and
  - (b) That Schedule No. 8 be amended accordingly.
3. This bylaw shall come into effect upon final adoption hereof.

Read a first time this 7<sup>th</sup> day of January, 2013

Read a second time this 7<sup>th</sup> day of January, 2013

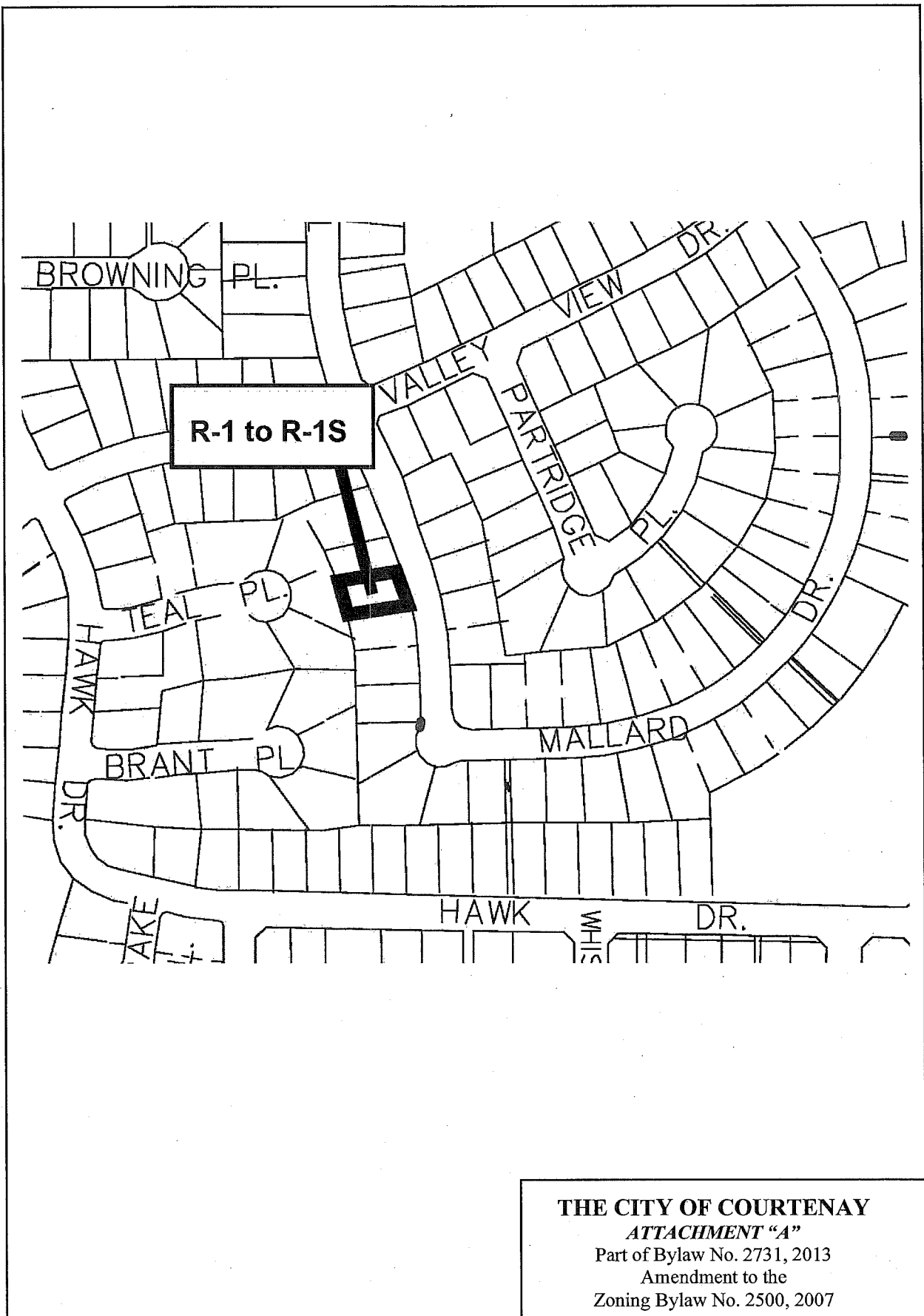
Considered at a Public Hearing this                      day of                      , 2013

Read a third time this                      day of                      , 2013

Finally passed and adopted this                      day of                      , 2013

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Director of Legislative Services



**THE CITY OF COURTENAY**

***ATTACHMENT "A"***

Part of Bylaw No. 2731, 2013

Amendment to the

Zoning Bylaw No. 2500, 2007

## THE CORPORATION OF THE CITY OF COURTENAY

### ROAD CLOSURE BYLAW NO. 2721, 2012

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

AND WHEREAS the Council of the City of Courtenay deems it expedient to close to traffic and remove the dedication of highway of that portion of highway comprising of seven (7) square metres in area in Part of Section 14, dedicated as Walkway at the Victoria Land Title Office by Plan VIP60575, Comox District, which is shown outlined in bold black on the reference plan prepared by M.R. Kuss, B.C.L.S. on the 10<sup>th</sup> day of August, 2012, a reduced copy of which is attached hereto as Schedule "A";

AND WHEREAS notices of Council's intention to close this portion of highway to traffic, to remove its dedication as highway, and to dispose of it were published in a newspaper and posted in the public notice posting place, and Council has provided an opportunity for persons who consider they are affected by the closure and disposition to make representations to Council;

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

NOW THEREFORE the Council of the City of Courtenay in open meeting assembled, enacts as follows:

1. That portion of highway comprising of seven (7) square metres in area in Part of Section 14, dedicated as Walkway at the Victoria Land Title Office by Plan VIP60575, Comox District, which is shown outlined in bold black on the reference plan prepared by M.R. Kuss, B.C.L.S. on the 10<sup>th</sup> day of August, 2012, attached hereto as Schedule "A" (the Closed Road), is closed to all types of traffic, and its dedication as highway is removed.
2. On deposit of the reference plan attached hereto as Schedule "A" and all other documentation for the closure of the Closed Road in the Victoria Land Title Office, the Closed Road is closed to traffic, it shall cease to be public highway, and its dedication as highway is cancelled.
3. The Mayor and Director of Legislative Services are authorized to execute and deliver such transfers, deeds of land, plans and other documentation as may be necessary for the purposes aforesaid.
4. This Bylaw may be cited as "Road Closure Bylaw No. 2721, 2012".

Read a first time this 10<sup>th</sup> day of December, 2012

Read a second time this 10<sup>th</sup> day of December, 2012

Read a third time this 10<sup>th</sup> day of December, 2012

Published in two editions of the Comox Valley Echo on the 18<sup>th</sup> and 24<sup>th</sup> day of December, 2012

Finally passed and adopted this      day of      , 2013

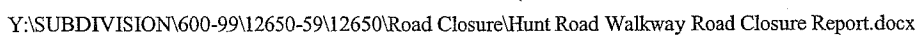
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Mayor

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Director of Legislative Services







**THE CORPORATION**  
**OF THE CITY OF**  
**COURTENAY**

**NOTICE OF HIGHWAY CLOSURE AND  
DISPOSITION OF LAND**

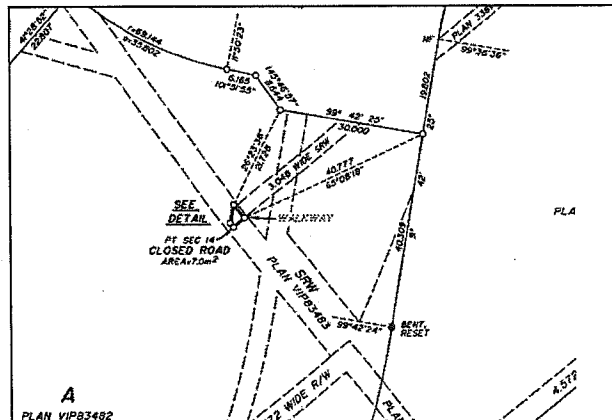
**BYLAW NO. 2721, 2012**

**Take Notice** that pursuant to Section 26 and 40 of the Community Charter, the Council of the Corporation of the City of Courtenay intends to consider adoption of the "Road Closure Bylaw No. 2721, 2012" to close a portion of highway and exchange it for land to be used as highway.

**The City of Courtenay gives notice** of its intention to close to traffic that portion of highway (walkway) 7 square metres in size on Hunt Road as shown outlined in black on the sketch below and labelled "Closed Road", and remove the dedication of that portion as a highway.

**The City of Courtenay further gives notice** of its intention to sell the closed portion of highway labelled "Closed Road" to PT Courtenay Enterprises Ltd. with a value of \$606.42 in exchange for land to be used as highway with a value of \$411,497.33.

The Bylaw closing that portion of Hunt Road walkway and removing its dedication as highway will be considered by Council at its regular meeting at the City of Courtenay City Hall, 830 Cliffe Avenue, Courtenay B.C. V9N 2J7, on January 7, 2013 at 4:00 pm. Persons who consider they are affected by the bylaw may deliver a written submission to the Director of Legislative Services by 4:00 pm on January 3rd, 2013.



John Ward, CMC  
Director of Legislative Services