F.3 **Bylaws for 902 Foul Bay Road: Rezoning Application No. 00737, Development Permit with Variances Application No. 00192, and Heritage Alteration Permit No. 00250**

Moved By Councillor Alto
Seconded By Councillor Andrew

That the following bylaws **be given first and second readings:**

1. Zoning Regulation Bylaw, Amendment Bylaw (No. 1280) No. 22-063
2. Heritage Designation (902 Foul Bay Road) Bylaw, Amendment Bylaw (No. 1) No. 22-065

FOR (6): Mayor Helps, Councillor Alto, Councillor Andrew, Councillor Dubow, Councillor Isitt, and Councillor Potts

OPPOSED (2): Councillor Thornton-Joe, and Councillor Young

CARRIED (6 to 2)

Moved By Councillor Alto
Seconded By Councillor Andrew

That the following bylaw **be given first, second and third readings:**

1. Housing Agreement (902 Foul Bay Road) Bylaw (2022) No. 22-064

CARRIED UNANIMOUSLY

Moved By Councillor Alto
Seconded By Councillor Andrew

Development Permit with Variances Application No. 00192

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:

1. That Council authorize the issuance of Development Permit with Variances Application No. 00192 for 902 Foul Bay Road, in accordance with:
    a. Plans date stamped July 28, 2022.
    b. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:
        i. increase the building height from 10.5m to 11.54m;
        ii. reduce the vehicle parking from 27 stalls to 14 stalls and the visitor parking from two stalls to one stall;
        iii. reduce the short-term bicycle parking from 12 stalls to four stalls

DRAFT

iv. reduce the separation distance between long-term bicycle parking racks from 45cm to 40cm

v. reduce the front (Quamichan Street) setback requirement from 6m to 3.10 (to building) and 1.38m (to stairs);

vi. reduce the flanking street (Redfern Street) setback from 6m to 3.37m (to building) and 0.37m (to stairs);

vii. reduce the flanking street (Foul Bay Road) setback from 6m to 3.73m;

viii. reduce the rear yard setback from 4m to 3m

ix. reduce the minimum separation distance for an accessory building from 2.4m to 1.9m.

c. That the Development Permit lapses two years from the date of this resolution."

FOR (7): Mayor Helps, Councillor Alto, Councillor Andrew, Councillor Dubow, Councillor Isitt, Councillor Potts, and Councillor Thornton-Joe

OPPOSED (1): Councillor Young

CARRIED (7 to 1)

Moved By Councillor Alto
Seconded By Councillor Potts

Heritage Alteration Permit No. 00250

That Council, after the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:

2. That Council authorize the issuance of Heritage Alteration Permit Application No. 00250 for 902 Foul Bay Road, in accordance with:

   a. Plans date stamped July 28, 2022.

   b. The Rock Wall Heritage Conservation Plan by Donald Luxton and Associates Inc. dated March 2020.

   c. That the Heritage Alteration Permit lapses two years from the date of this resolution."

CARRIED UNANIMOUSLY

DRAFT

Council Report
For the Meeting of September 1, 2022

To: Council **Date:** August 18, 2022

From: Karen Hoese, Director, Sustainable Planning and Community Development

Subject: **Update on Rezoning Application No. 00737 for 902 Foul Bay Road and Associated Development Permit with Variances Application No. 00192 and Heritage Alteration Permit No. 00250**

RECOMMENDATION

Rezoning Application No. 00737

That Council give first and second reading of Zoning Regulation Bylaw Amendment No. 22-063 (Amendment No. 1280) and Heritage Designation (902 Foul Bay Road) Bylaw No. 22-065 (Amendment No. 1) amending Heritage Designation (902 Foul Bay Road) Bylaw No. 495, and give first, second and third reading of Housing Agreement (902 Foul Bay Road) Bylaw No. 22-064.

Development Permit with Variances Application No. 00192

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:

"1. That Council authorize the issuance of Development Permit with Variances Application No. 00192 for 902 Foul Bay Road, in accordance with:

a. Plans date stamped **July 28, 2022**.

b. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:

i. increase the building height from 10.5m to 11.54m;

ii. reduce the vehicle parking from 27 stalls to **14 stalls** and the visitor parking from two stalls to one stall;

iii. reduce the short-term bicycle parking from 12 stalls to four stalls

iv. reduce the separation distance between long-term bicycle parking racks from 45cm to 40cm

v. reduce the front (Quamichan Street) setback requirement from 6m to 3.10 (to building) and **1.38m** (to stairs);

vi. reduce the flanking street (Redfern Street) setback from 6m to 3.37m (to building) and 0.37m (to stairs);

vii. reduce the flanking street (Foul Bay Road) setback from 6m to 3.73m;

viii. reduce the rear yard setback from 4m to 3m

ix. reduce the minimum separation distance for an accessory building from 2.4m to 1.9m.

c. That the Development Permit lapses two years from the date of this resolution."

Heritage Alteration Permit No. 00250

That Council, after the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:

"1. That Council authorize the issuance of Heritage Alteration Permit Application No. 00250 for 902 Foul Bay Road, in accordance with:

a. Plans date stamped **July 28, 2022.**

b. The Rock Wall Heritage Conservation Plan by Donald Luxton and Associates Inc. dated March 2020.

c. That the Heritage Alteration Permit lapses two years from the date of this resolution."

EXECUTIVE SUMMARY

The purpose of this report is to present Council with an update regarding the Rezoning Application, Development Permit with Variances Application and associated Heritage Designation Amendment and Heritage Alteration Permit Application for the property located at 902 Foul Bay Road. The proposal is to create a new site-specific zone that permits an increase in density and allows for 18 ground-oriented multiple dwellings. The applicant has fulfilled the conditions set by Council and the application is ready to advance to Public Hearing.

PUBLIC HEARING CONDITIONS

In accordance with Council's motion of March 10, 2022 (see attached minutes), the following conditions have been fulfilled.

Legal Agreements

<u>Affordable Home Ownership Units</u>

The applicant has worked with the Capital Regional Housing Corporation (CRHC) to secure four affordable home ownership units. This arrangement has been secured through a housing agreement bylaw and covenant with the Capital Regional District. The agreements provide flexibility to the CRHC to make adjustments to the qualifying incomes to ensure the long-term success of the affordable home ownership program.

The following table provides details on the affordable home ownership units:

	One-Bedroom Units	Three-Bedroom Units
Number of units	2	2
Qualifying Income Limit	$85,000^	$156,420*
Below market value sale price (minimum)	20%	20%
Qualified Buyer Criteria	• First time home buyer • Resident of Capital Region for at least 1 year • Preference given to those without a vehicle	• Resident of Capital Region for at least 1 year • Preference given to those without a vehicle
Rental Restrictions	Yes	Yes
^ Qualifying income is generally consistent with the City's Housing Strategy for Affordable Home Ownership Units * Qualifying income is 10% below BC Housing middle income limit and considered suitable for larger three-bedroom units		

Unit Mix and Limit on Rental Restrictions

In addition to securing the affordable home ownership units, the applicant has registered a covenant on title to secure the provision of 16 three-bedroom units. The applicant has also executed a housing agreement that ensures a future strata cannot restrict rentals to non-owners with the exception of the four units secured as affordable home ownership units with the CRHC.

Statutory Right of Way

The applicant has registered a covenant on title securing a 2.18m statutory right-of-way along a portion of the Foul Bay Road frontage to accommodate a new sidewalk and additional space for a new boulevard with street trees.

Transportation Demand Management

The applicant has registered a covenant on title securing the following transportation demand management measures to off-set the potential impacts of the proposed parking variance:

- carshare memberships for each dwelling unit with $100 in usage credits per membership
- enhance bicycle parking facilities that include:
    - a minimum of 30 long term bicycle parking spaces, two of which must accommodate oversized bicycles
    - a minimum of 50% of the spaces with electric bicycle charging capabilities
    - a bicycle repair stand with tools, pump and wash area

Public Realm Improvements

The Council motion directed the applicant to enter into a legal agreement securing the construction of two curb bulbs on Quamichan Street. However, this type of sidewalk and curb construction is now part of the City's *Subdivision and Development Servicing Bylaw*; therefore, a covenant was deemed unnecessary and is no longer proposed with this application.

Plan Revisions and Tree Considerations

Several revisions have been made to the plans to address Council's motion. These include:

- a ramp access has been added to the three-bedroom unit near the corner of Quamichan Street and Redfern Street to create an adaptable unit
- the long-term bicycle storage has been relocated to the north end of the building fronting Redfern Street in an area under the building that was previously proposed as vehicle parking
- the open space near the corner of Quamichan Street and Foul Bay Road, which was previously occupied by a bicycle storage building, now accommodates visitor bicycle parking, a bicycle repair/wash area, an expanded play space for children and an additional tree
- species selection for new trees has changed in coordination with Parks staff to ensure long-term viability of the new on-site trees
- the proposed hydro servicing has changed to reduce impacts on on-site and off-site trees
- short-term bicycle parking proposed near Redfern Street has been removed to reduce the impacts of installing a concrete pad within the critical root zone of the protected trees in that area.

In addition to the plan changes listed above, the applicant has provided a tree retention and trade off analysis, which assesses the potential impacts on the proposal of retaining additional trees. The analysis is attached to this report. Essentially, retaining additional trees would result in a loss of dwelling units, reduced parking or effect siting and servicing, which in turn, could result in further tree impacts. Ultimately, the applicant has chosen not to reduce the unit count noting this would result in a loss of the affordable units associated with this proposal.

Variances

The plan revisions have resulted in changes to the variances associated with this proposal. The revised variances are shown in bold text in the recommendation for Council's consideration.

Long-term Bicycle Parking

Stacked bicycle storage with lift assist is now proposed for 22 of the 30 long-term bicycle parking stalls. The proposed stacking unit provides 40cm of horizontal separation between stalls instead of the 45cm required by the *Zoning Regulation Bylaw*. This variance is considered supportable because the stalls are staggered vertically to provide sufficient clearances between bicycles.

Short-term Bicycle Parking

The amount of short-term bicycle parking has been reduced from 12 stalls to four stalls. As mentioned, two of the stalls were removed to reduce impacts on protected trees. The remaining

stalls were removed to accommodate an accessible parking stall and pathway. The requirement for 12 visitor stalls is triggered by the separation of the dwelling units into two buildings because the *Zoning Regulation Bylaw* calculates minimum short-term bicycle parking as the greater of six stalls per building or 0.1 stalls per unit. Based on this requirement, a sixty-unit building would only require six short-term bicycle parking stalls, whereas this proposal for two buildings with 18 units requires 12 stalls. Due to this technicality, the variance to reduce the short-term bicycle parking to four stalls is considered supportable.

Vehicle Parking

The proposed vehicle parking has been reduced to accommodate the new bicycle parking room, which has increased the parking variance by two stalls. The parking variance is considered supportable given the TDM measures proposed.

CONCLUSIONS

The applicant has fulfilled the conditions set by Council. The recommendation provided for Council's consideration contains the appropriate language to advance these applications to a public hearing and an opportunity for public comment.

Respectfully submitted,

Alec Johnston
Manager, Development Process

Karen Hoese, Director
Sustainable Planning and Community Development Department

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: Aerial Map
- Attachment B: Revised Plans dated July 28, 2022
- Attachment C: March 10, 2022 Council meeting minutes
- Attachment D: February 24, 2022 Committee of the Whole meeting staff report
- Attachment E: February 24, 2022 Committee of the Whole meeting minutes
- Attachment F: Tree Retention and Trade-Off Analysis



N

902 Foul Bay Road
Rezoning No.00737

CITY OF VICTORIA

ATTACHMENT B

List of Drawings

Architectural

D'Ambrosio architecture + urbanism
2960 Jutland Road
Victoria, BC
V8T 5K2

A0.0 Cover Sheet
A0.1 Site Survey + Location Plan
A0.2 Shadow Analysis
A0.3 3D Shadow Analysis

A1.0 Site Plan + Project Information + Grade Calculation
A2.0 Basement Plan
A2.1 First Storey Plan
A2.2 Second Storey Plan
A2.3 Third Storey Plan
A2.4 Roof Plan

A3.0 East Building Elevations
A3.1 West Building Elevations
A3.2 Street/Context Elevations
A3.3 Materials Palette

A4.0 Building Sections
A4.1 Roof Sections

Landscape

Biophilia Design Collective Ltd.
1608 Camosun Street
Victoria, BC
V8T 3E6

L0 Cover Page
L1 Landscape Site Plan
L2 Green Roof on Parking Facility
L3 Green Roof over Second Storey
L4 Existing Tree Removal and Retention Plan
L5 Arborist Report of Existing Trees
L6 Tree Planting Plan
L7 Shrub Planting Plan
L8 Planting Imagery
L9 Design Detail

Civil

J.E. Anderson
4212 Glanford Ave.
Victoria, BC
V8Z 4B7

C1 Site Servicing Plan

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architecture + urbanism

2960 Jutland Road
Victoria BC Canada V8T5K2

tel 250.384.2400
fax 250.384.7893
eml mail@fdarc.ca
web www.fdarc.ca

902 Foul Bay Road

Victoria B.C.



Revised Rezoning IV
April 22, 2022

This sketch does not constitute a redefinition of the legal boundaries hereon described and is not to be used in any matter which would assume same.

J.E. Anderson & Associates accepts no responsibility or liability for any damages that may be suffered by a third party as a result of any decision made, or actions taken based on this document.

Subject to charges, legal notations, and interests shown on: Title No. CA6268304 (P.I.D. 007-652-674)

Lot dimensions and area shown is based on a current field survey and is subject to the registration of a boundary redefinition survey

Distances and elevations are in metres

Elevations are geodetic based on control monument 10-46

Elevations are at grade unless noted otherwise

0 2 4 8 12 16 20

The intended plot size of this plan is 432mm in width by 560mm in height, (C size), when plotted at a scale of 1:200.

LEGEND

- Denotes Control Monument Found
- Denotes Traverse Station Placed
- Denotes Coniferous Tree
- Denotes Deciduous Tree
- Denotes Catch Basin
- Denotes Drain Manhole
- Denotes Hydrant
- Denotes Sewer Manhole
- Denotes Street Sign
- Denotes Typical Spot Elevation
- Denotes Utility Pole
- Denotes Utility Pole Anchor
- Denotes Water Valve Box

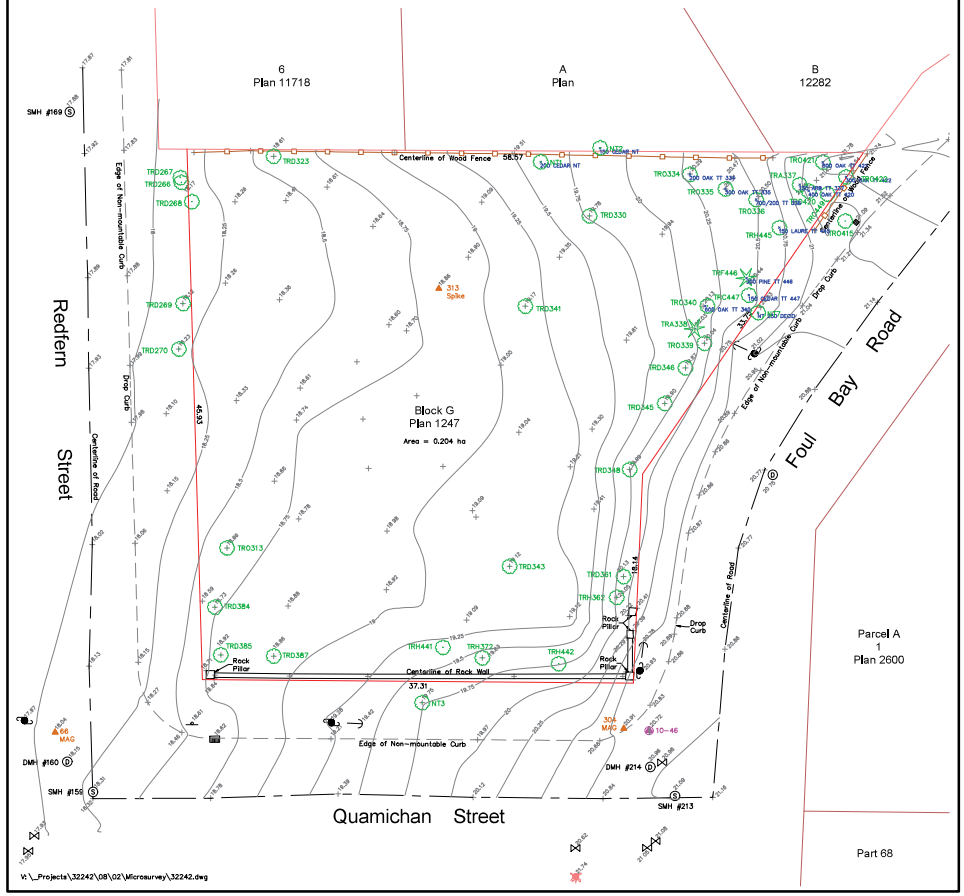
SITE PLAN

ARYZE DEVELOPMENTS

Block G, Section 68, Victoria District, Plan 1247

ADDRESS : 902 Foul Bay Road
PROJECT SURVEYOR : RPH
DRAWN BY : BAR | DATE : OCT 24/19
OUR FILE : 32242 | REV : MAR 16/20

J.E.ANDERSON & ASSOCIATES
SURVEYORS - ENGINEERS
4212 GLANFORD AVE, VICTORIA, B.C. V8Z 4B7
TEL: 250-727-2214 FAX: 250-727-3395
E-MAIL : info@jeanderson.com
VICTORIA-NANAIMO-PARKSVILLE-CAMPBELL RIVER



1 Site Survey
SCALE: 1:200



2 Context Plan
SCALE: 1:500



3 Location / Zoning Plan
SCALE: nts

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2022-07-27

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CITY OF VICTORIA
Revisions
Received Date: July 28, 2022

rev no	description	date
5	REVISED REZONING SUBMISSION IV	22.04.22
4	REVISED REZONING SUBMISSION III	21.07.29
3	REVISED REZONING SUBMISSION II	21.01.12
2	REVISED REZONING SUBMISSION	20.07.16
1	ISSUED FOR REZONING	20.04.17

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project name
902 Foul Bay Road
Victoria, BC

sheet title
Site Survey, Context, Location / Zoning Plan

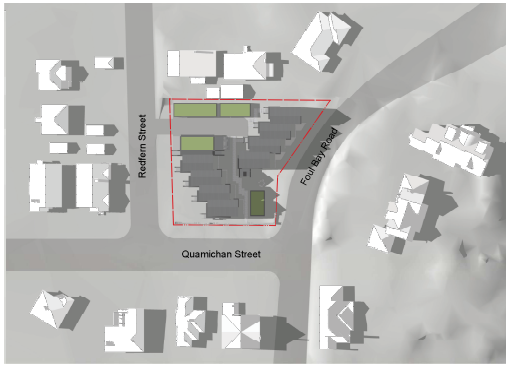
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drawing file	
date	22.07.27
scale	1:100
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A0.1



1 June 21 • 9:00am
SCALE: nts



2 June 21 • 12:00pm
SCALE: nts



3 June 21 • 5:00pm
SCALE: nts



4 March 21 • 9:00am
SCALE: nts



5 March 21 • 12:00pm
SCALE: nts



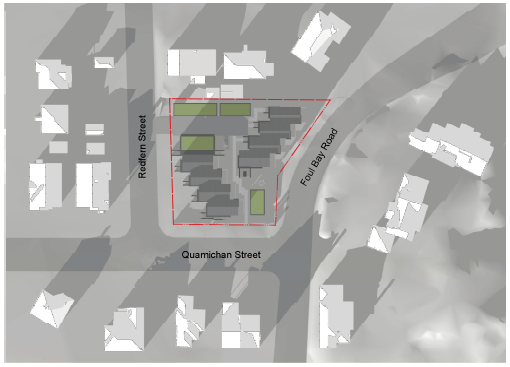
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7 December 21 • 10:00am
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8 December 21 • 12:00pm
SCALE: nts



9 December 21 • 3:00pm
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sheet title
Shadow Studies

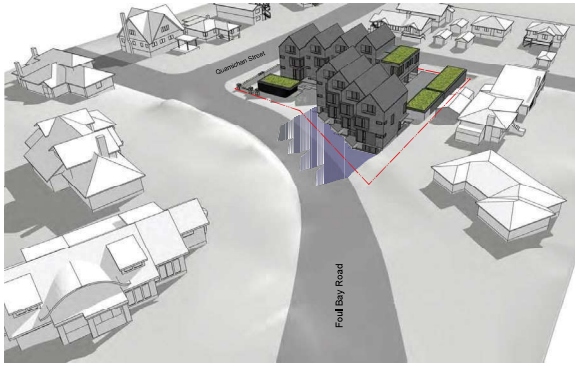
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sheet no.	A0.2



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2 June 21 • 12:00pm
SCALE: nts



3 June 21 • 5:00pm
SCALE: nts



4 March 21 • 9:00am
SCALE: nts



5 March 21 • 12:00pm
SCALE: nts



6 March 21 • 5:00pm
SCALE: nts



7 December 21 • 10:00am
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8 December 21 • 12:00pm
SCALE: nts



9 December 21 • 3:00pm
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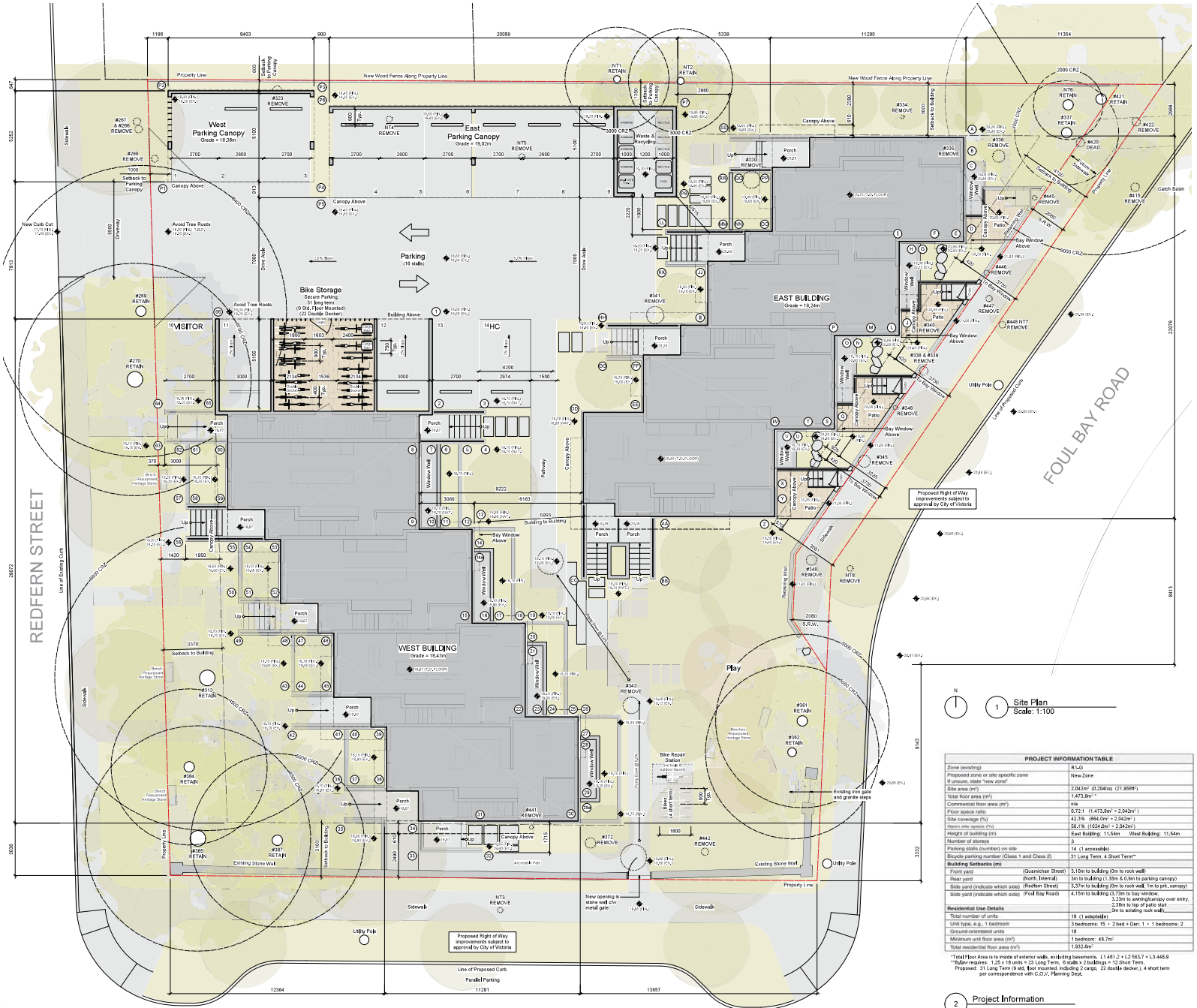
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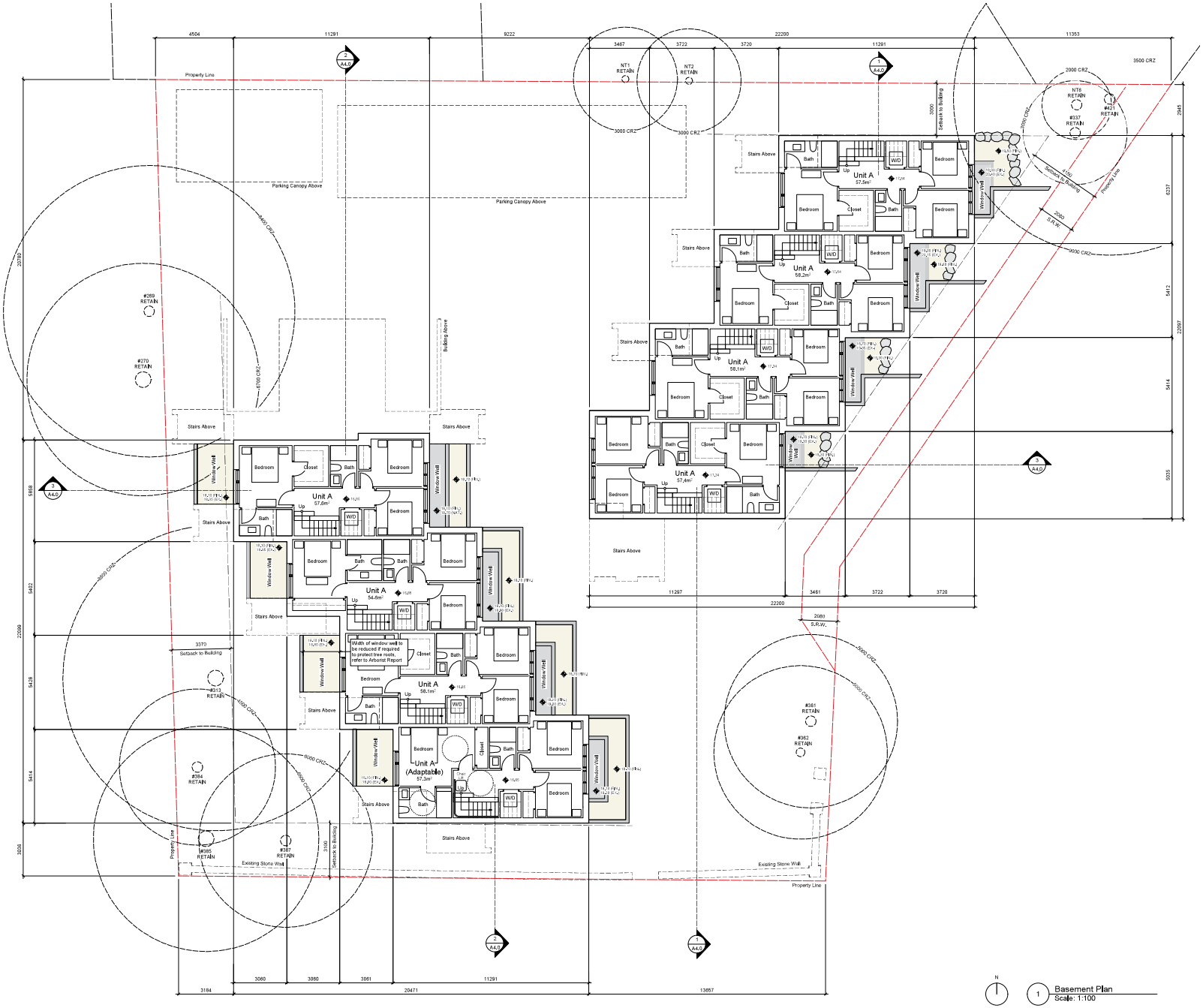
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sheet title
3D Shadow Studies

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drawing file	
date	22.07.27
scale	1:100
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A0.3


REDFERN STREET
FOUL BAY ROAD
QUAMICHAN STREET
West Parking Canopy
Grade = 18,38m
East Parking Canopy
Grade = 19,02m
Parking
(16 stalls)
Bike Storage
Secure Parking
31 long term
(9 Std, Floor Mounted)
(22 Double Decker)
EAST BUILDING
Grade = 18,24m
WEST BUILDING
Grade = 18,43m
VISITOR
HC
Play
Bike Repair Station
Existing Stone Wall
Existing Iron gate and granite steps
Proposed Right of Way improvements subject to approval by City of Victoria
Line of Proposed Curb
Parallel Parking
Property Line
Sidewalk
Setback to Building
Canopy Above
Avoid Tree Roots
New Curb Cut
Line of Existing Curb
Line of Proposed Curb
Utility Pole
Catch Basin
Waste & Recycling
Bench Repurposed Heritage Stone
Building to Building
Pathway
Window Wall
Bay Window Above
Porch
Patio
Drive Aisle
Driveway
Property Line
New Wood Fence Along Property Line
Existing Stone Wall
Access Path
Bollard
Bollard (4 short term)
Beam
Sloping Sidewalk
Setback to Parking Canopy
Setback to Parking
Setback to Building
Building Above
Canopy Above
Pathway
Window Wall
Bay Window Above
Porch
Patio
Bench Repurposed Heritage Stone
Bike Repair Station
Existing Stone Wall
Existing Iron gate and granite steps
Proposed Right of Way improvements subject to approval by City of Victoria
Line of Proposed Curb
Parallel Parking
Property Line
Sidewalk
Setback to Building
Canopy Above
Avoid Tree Roots
New Curb Cut
Line of Existing Curb
Line of Proposed Curb
Utility Pole
Catch Basin
Waste & Recycling
Bench Repurposed Heritage Stone
Building to Building
Pathway
Window Wall
Bay Window Above
Porch
Patio
Drive Aisle
Driveway
Property Line
New Wood Fence Along Property Line
Existing Stone Wall
Access Path
Bollard
Bollard (4 short term)
Beam
Sloping Sidewalk
Setback to Parking Canopy
Setback to Parking
Setback to Building



N

1 Basement Plan
Scale: 1:100

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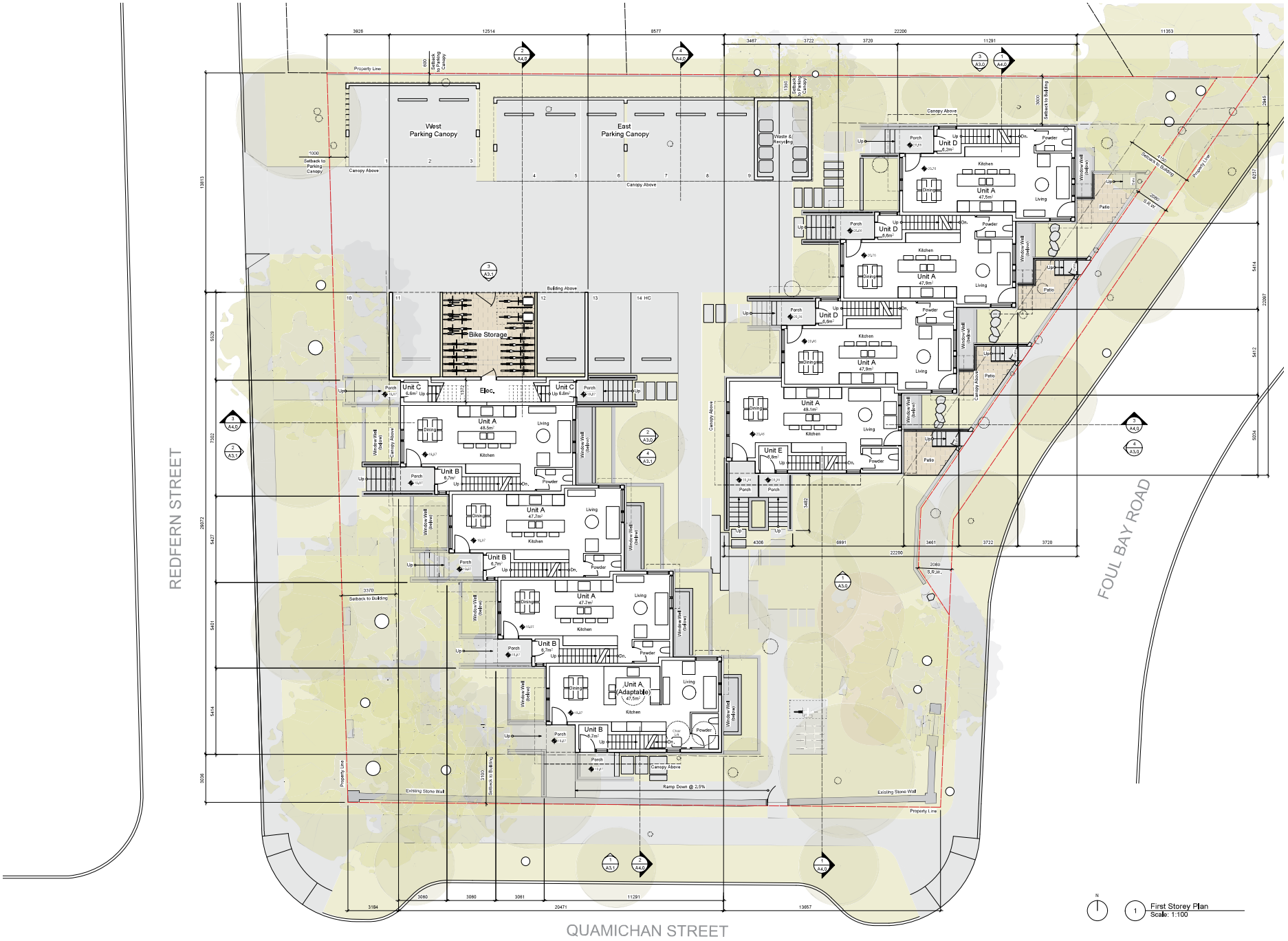
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2	REVISED REZONING SUBMISSION	20.07.16
1	ISSUED FOR REZONING	20.04.17

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sheet title
Basement Plan

project no.	1933
drawing file	
date	22.07.27
scale	1:100
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A2.0



1 First Storey Plan
Scale: 1:100

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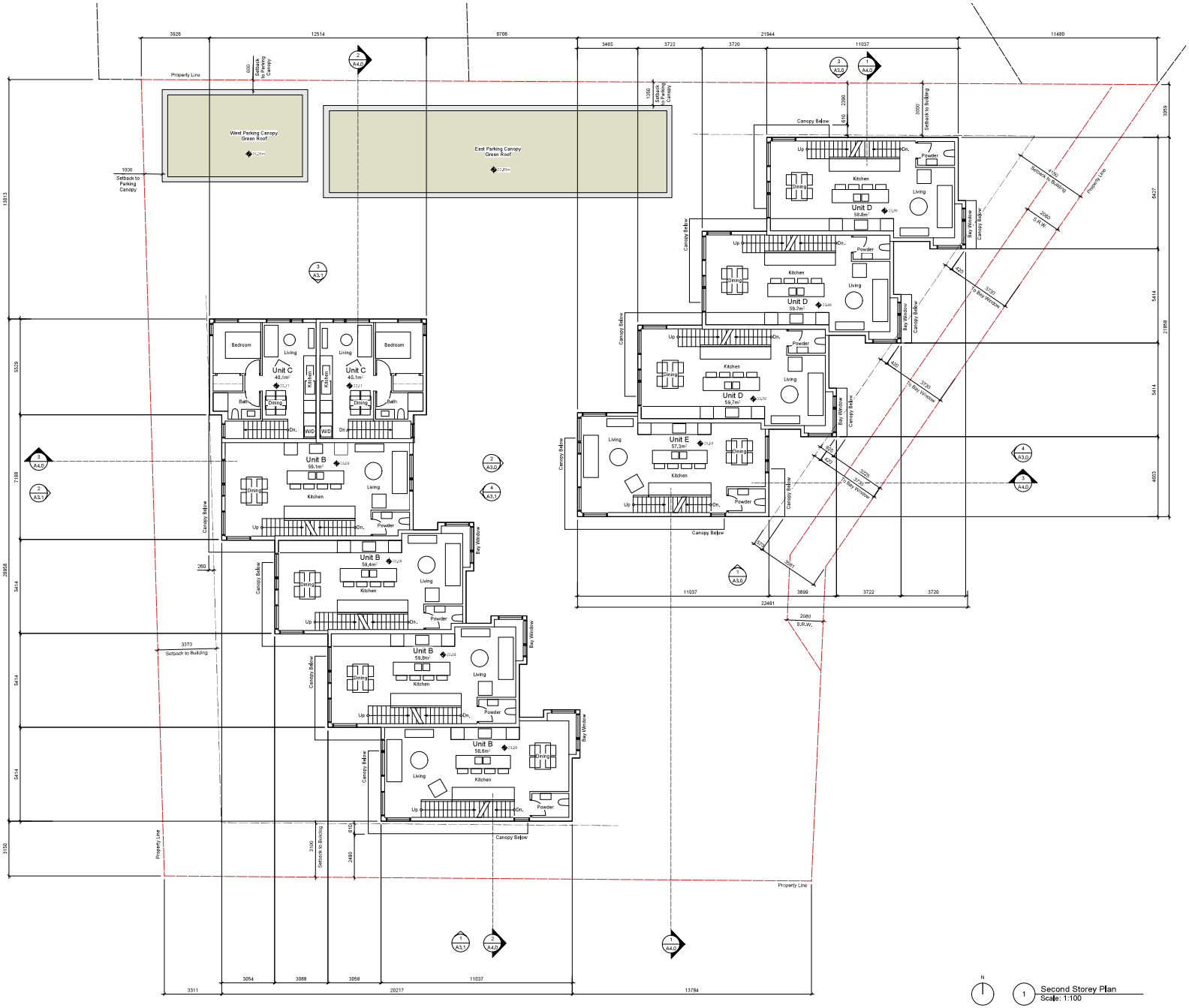
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4	REVISED REZONING SUBMISSION III	21.07.29
3	REVISED REZONING SUBMISSION II	21.01.12
2	REVISED REZONING SUBMISSION	20.07.16
1	ISSUED FOR REZONING	20.04.17

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project name
902 Foul Bay Road
Victoria, BC

sheet title
First Storey Plan

project no.	1933
drawing file	
date	22.07.27
scale	1:100
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A2.1



1 Second Storey Plan
Scale: 1:100

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architecture + urbanism

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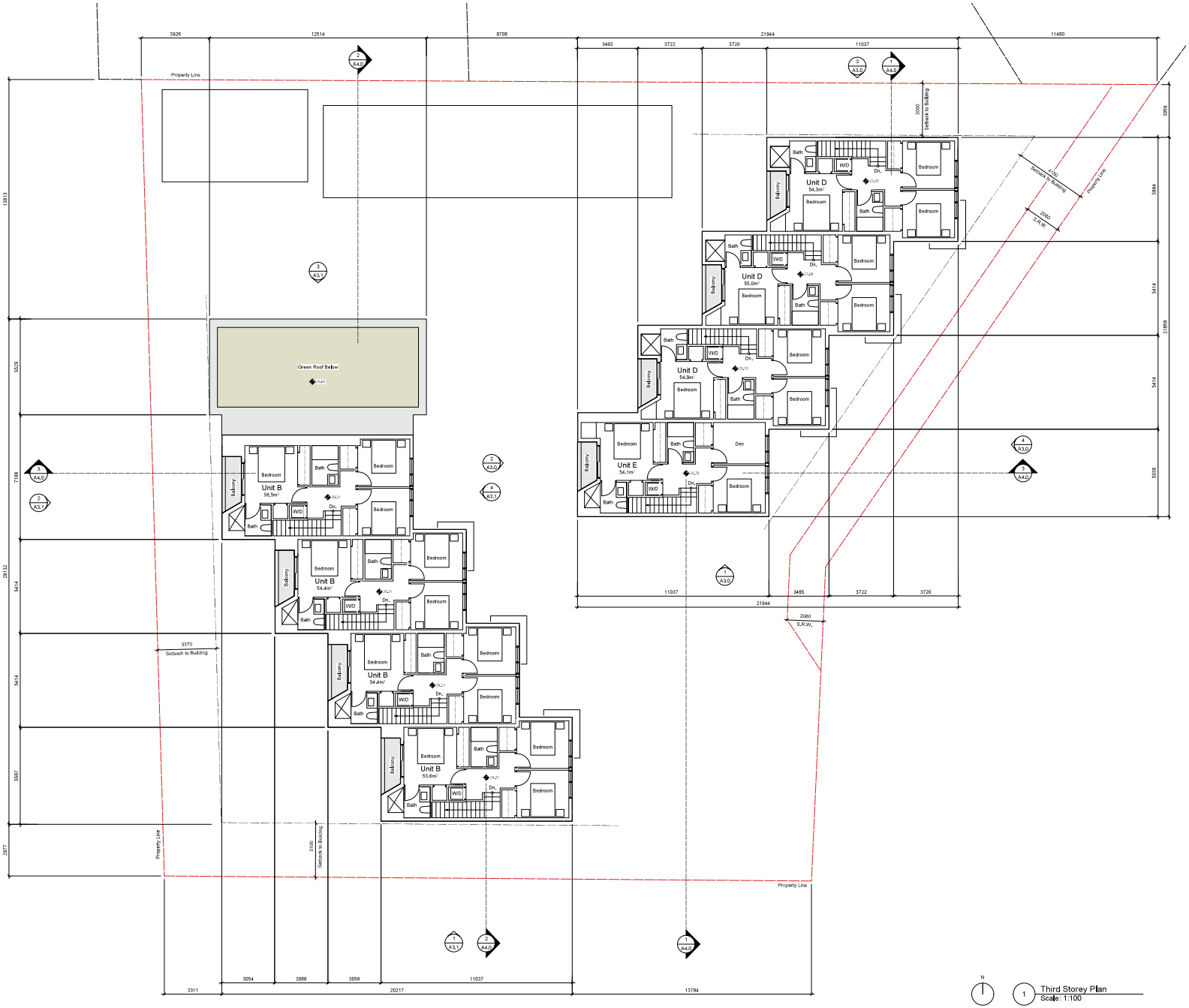
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project name
902 Foul Bay Road
Victoria, BC

sheet title
Second Storey Plan

project no.	1933
drawing file	
date	22.07.27
scale	1:100
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A2.2



1 Third Storey Plan
Scale: 1:100

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1	ISSUED FOR REZONING	20.04.17

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project name
902 Foul Bay Road
Victoria, BC

sheet title
Third Storey Plan

project no.	1933
drawing file	
date	22.07.27
scale	1:100
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A2.3



N

1 Roof Plan
Scale: 1:100

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project name
902 Foul Bay Road
Victoria, BC

sheet title
Roof Plan

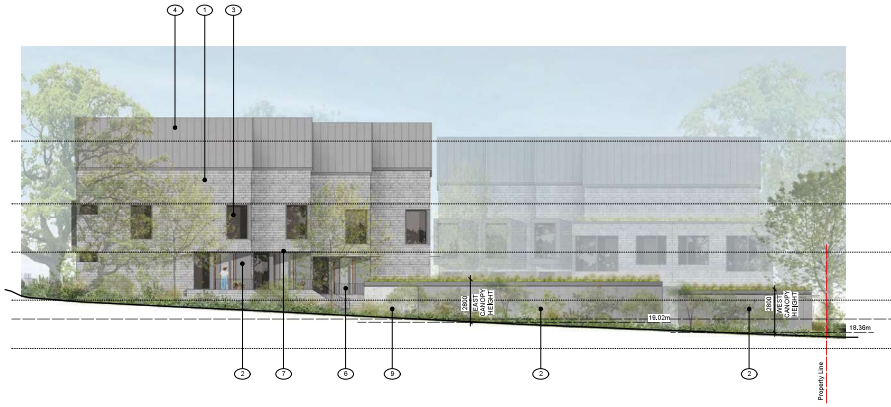
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drawing file	
date	22.07.27
scale	1:100
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A2.4



1 East Building • South Elevation
Scale: 1:150



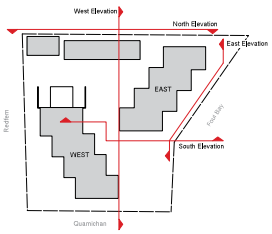
2 East Building • West Elevation
Scale: 1:150



3 East Building • North Elevation
Scale: 1:150



4 East Building • East Elevation (Foul Bay)
Scale: 1:150



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Materials Key

1. Painted Shingle Cladding – Warm Grey
2. Panel Cladding – Charcoal
3. Windows / Doors – Charcoal
4. Prefinished Metal Roof – Weathered Zinc
5. Painted Wood Steps – Warm Grey
6. Painted Metal Picket Guard – Charcoal
7. Painted Metal Plate Awning – Charcoal
8. Render – Warm Grey
9. Architectural Concrete

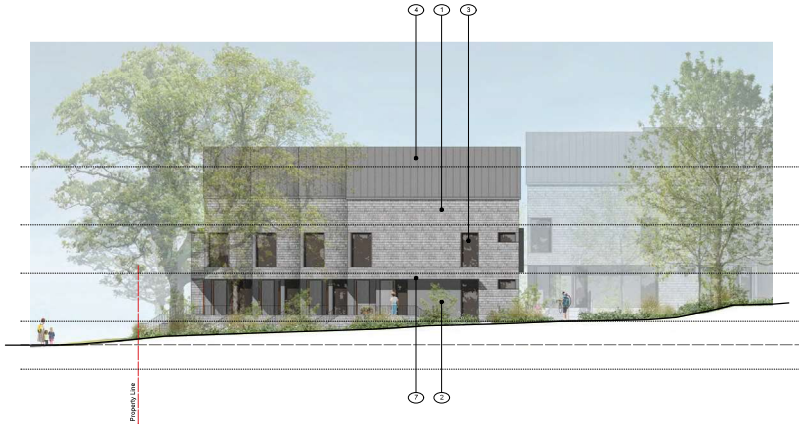
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1	ISSUED FOR REZONING	20.04.17

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project name
902 Foul Bay Road
Victoria, BC

sheet title
East Building Elevations

project no.	1933
drawing file	
date	22.07.27
scale	1:150
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A3.0



1 West Building • South Elevation (Quamichan)
Scale: 1:150



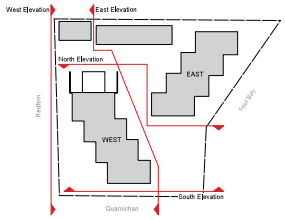
2 West Building • West Elevation (Redfern)
Scale: 1:150



3 West Building • North Elevation
Scale: 1:150



4 West Building • East Elevation
Scale: 1:150



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Materials Key

1. Painted Shingle Cladding – Warm Grey
2. Panel Cladding – Charcoal
3. Windows / Doors – Charcoal
4. Prefinished Metal Roof – Weathered Zinc
5. Painted Wood Steps – Warm Grey
6. Painted Metal Picket Guard – Charcoal
7. Painted Metal Plate Awning – Charcoal
8. Render – Warm Grey
9. Architectural Concrete

rev no	description	date
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project name
902 Foul Bay Road
Victoria, BC

sheet title
West Building Elevations

project no.	1933
drawing file	
date	22.07.27
scale	1:150
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A3.1



1 Foul Bay Street / Context Elevation
Scale: 1:200



2 Quamichan Street / Context Elevation
Scale: 1:200



3 Redfern Street / Context Elevation
Scale: 1:200

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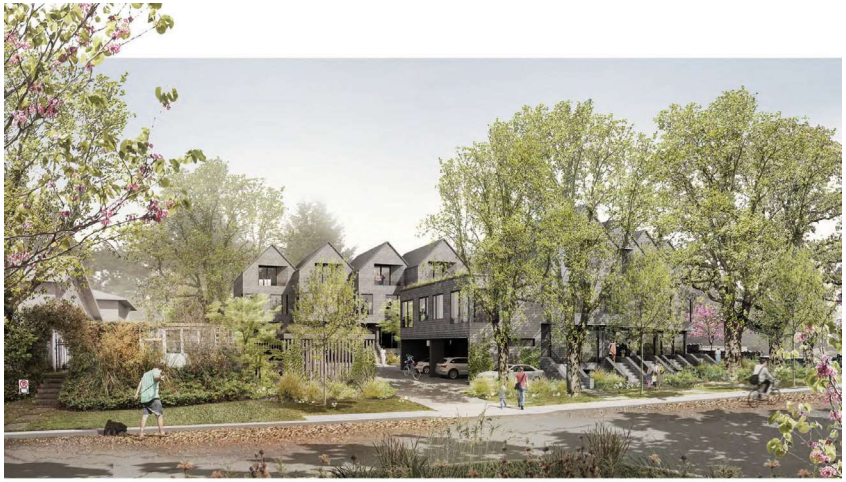
project name
902 Foul Bay Road
Victoria, BC

sheet title
Street/Context Elevations

project no.	1933
drawing file	
date	22.07.27
scale	1:200
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A3.2



1 Corner of Quamichan and Redfern
SCALE: nts



2 Redfern Looking Southeast
SCALE: nts



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7. Painted Metal Plate Awning - Charcoal
8. Render - Warm Grey
9. Architectural Concrete

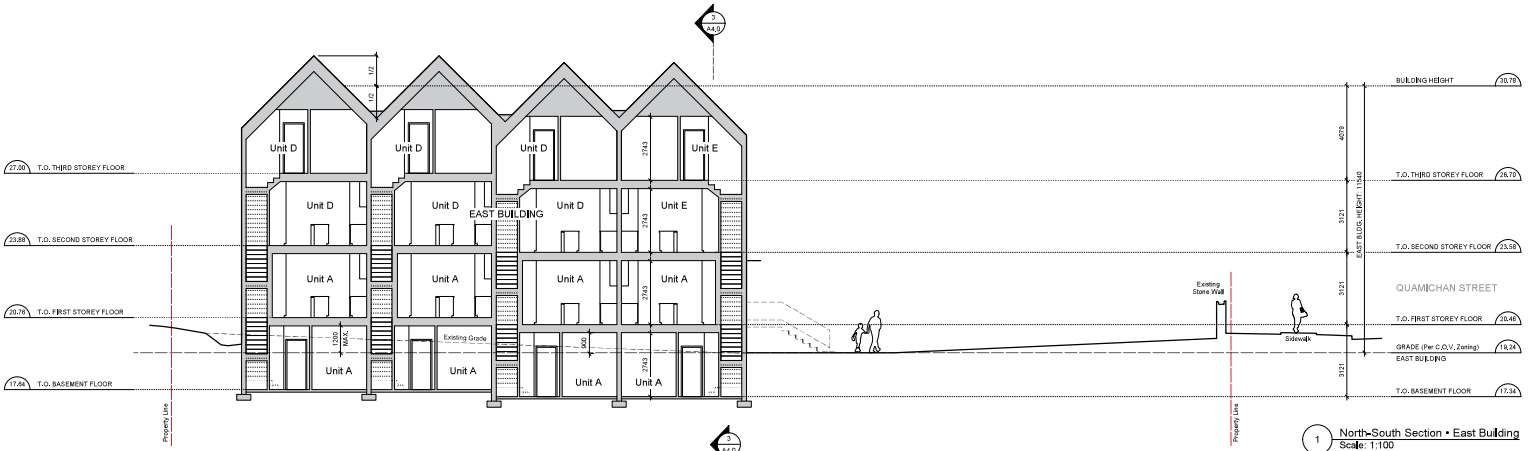
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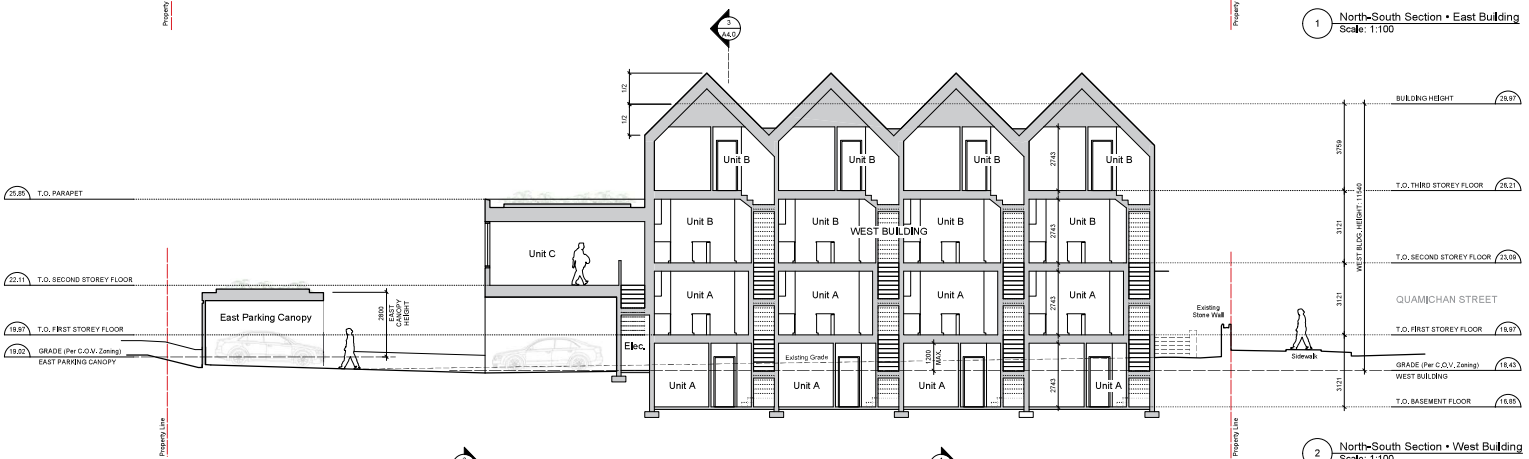
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902 Foul Bay Road
Victoria, BC

sheet title
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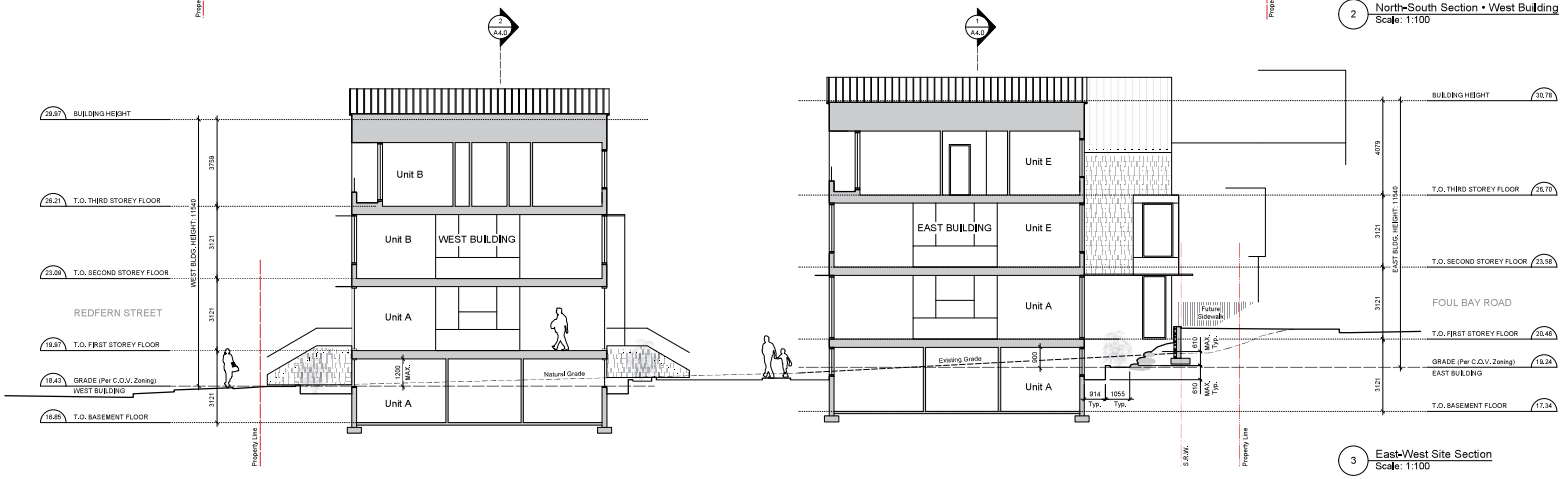
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drawing file	
date	22.07.27
scale	
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A3.3



1 North-South Section • East Building
Scale: 1:100



2 North-South Section • West Building
Scale: 1:100



3 East-West Site Section
Scale: 1:100

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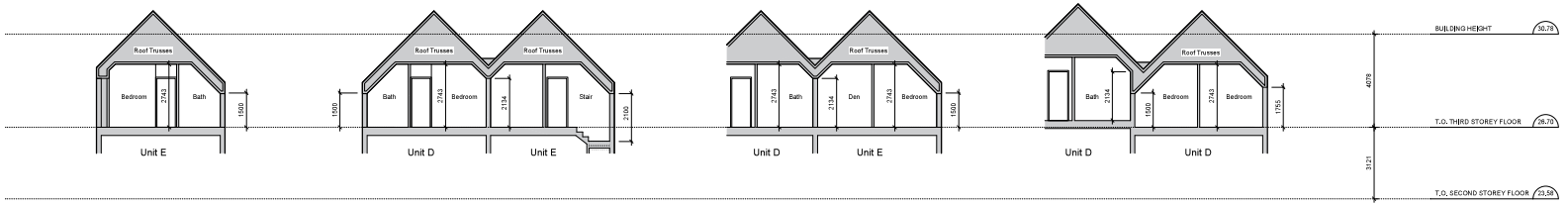
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project name
902 Foul Bay Road
Victoria, BC

sheet title
Building Sections

project no.	1933
drawing file	
date	22.07.27
scale	1:100
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A4.0

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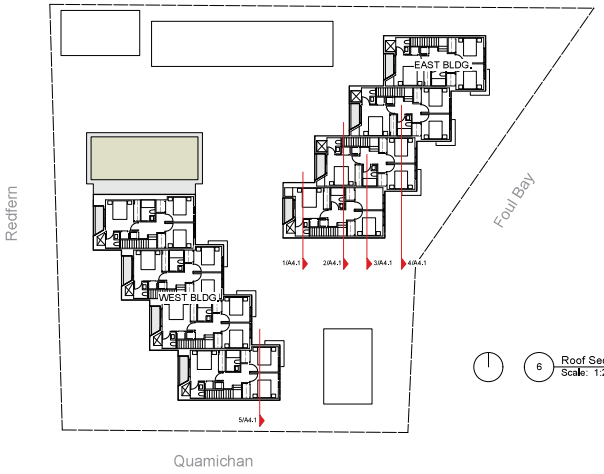


1 Roof Section • East Building
Scale: 1:100

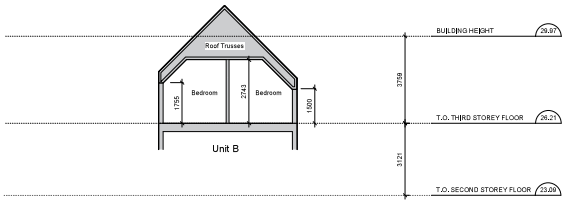
2 Roof Section • East Building
Scale: 1:100

3 Roof Section • East Building
Scale: 1:100

4 Roof Section • East Building
Scale: 1:100



6 Roof Section Key Plan
Scale: 1:250



5 Roof Section • West Building
Scale: 1:100

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project name
902 Foul Bay Road
Victoria, BC

sheet title
Roof Sections

project no.	1933
drawing file	
date	22.07.27
scale	1:100
drawn by	JDH
checked by	ES
revision no.	5
sheet no.	A4.1



BIOPHILIA design collective

Biophilia design collective Ltd.
250.590.1156
Info@biophiliacollective.ca

CLIENT NAME
Purdey Group

ADDRESS
902 Foul Bay Rd
Victoria, BC

DESIGNED BY
Bianca Bodley

DRAWN BY
KT

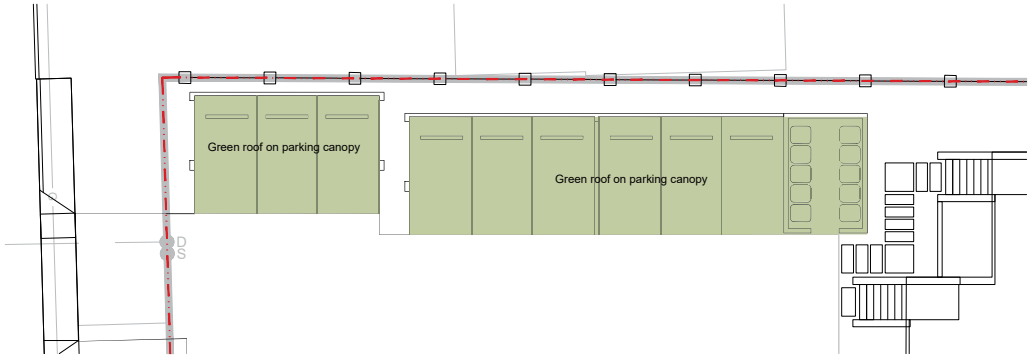
ISSUED FOR DEVELOPMENT PERMIT
July 25, 2022

NORTH

Scale: 1:100

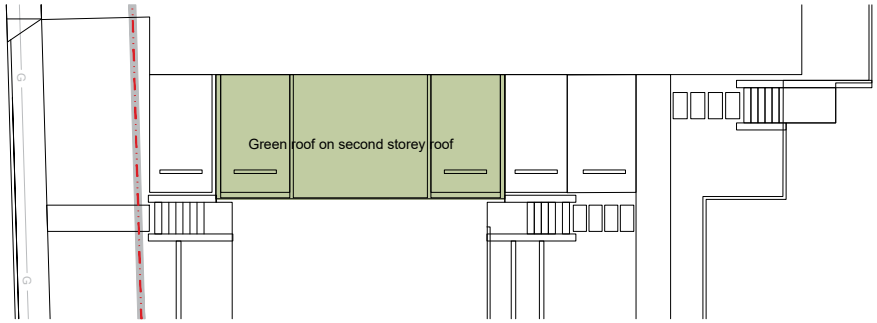
L1 Landscape Site Plan

Date
July 25, 2022



1 L2 GREEN ROOF ON PARKING FACILITY
1:100

L2 -1 GREEN ROOF PLANT LIST					
ID	Quantity	Latin Name	Common Name	Category	Size
Fr	125	Festuca roemeri	Roemer's Fescue	Grass	3" Plug
Pp	125	Festuca saximontana	Rocky mountain fescue	Grass	3" Plug
Ssm	1500	Sedum spurium	Stonecrop	Perennial	3" Plug
Sa	1500	Sedum album	White stonecrop	Perennial	3" Plug
Ssp	1500	Sedum spathulifolium	Cape blanco	Perennial	3" Plug
Ss	1500	Sedum spurium 'Dragons Blood'	Dragon's blood	Perennial	3" Plug



2 L2 GREEN ROOF OVER SECOND STOREY
1:100

L2 -2 GREEN ROOF PLANT LIST					
ID	Quantity	Latin Name	Common Name	Category	Size
Fr	40	Festuca roemeri	Roemer's Fescue	Grass	3" Plug
Pp	30	Festuca saximontana	Rocky mountain fescue	Grass	3" Plug
Ssm	320	Sedum spurium	Stonecrop	Perennial	3" Plug
Sa	320	Sedum album	White stonecrop	Perennial	3" Plug
Ssp	320	Sedum spathulifolium	Cape blanco	Perennial	3" Plug
Ss	320	Sedum spurium 'Dragons Blood'	Dragon's blood	Perennial	3" Plug

BIOPHILIA design collective

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CLIENT NAME
Purdey Group

ADDRESS
902 Foul Bay Rd
Victoria, BC

DESIGNED BY
Bianca Bodley

DRAWN BY
KT

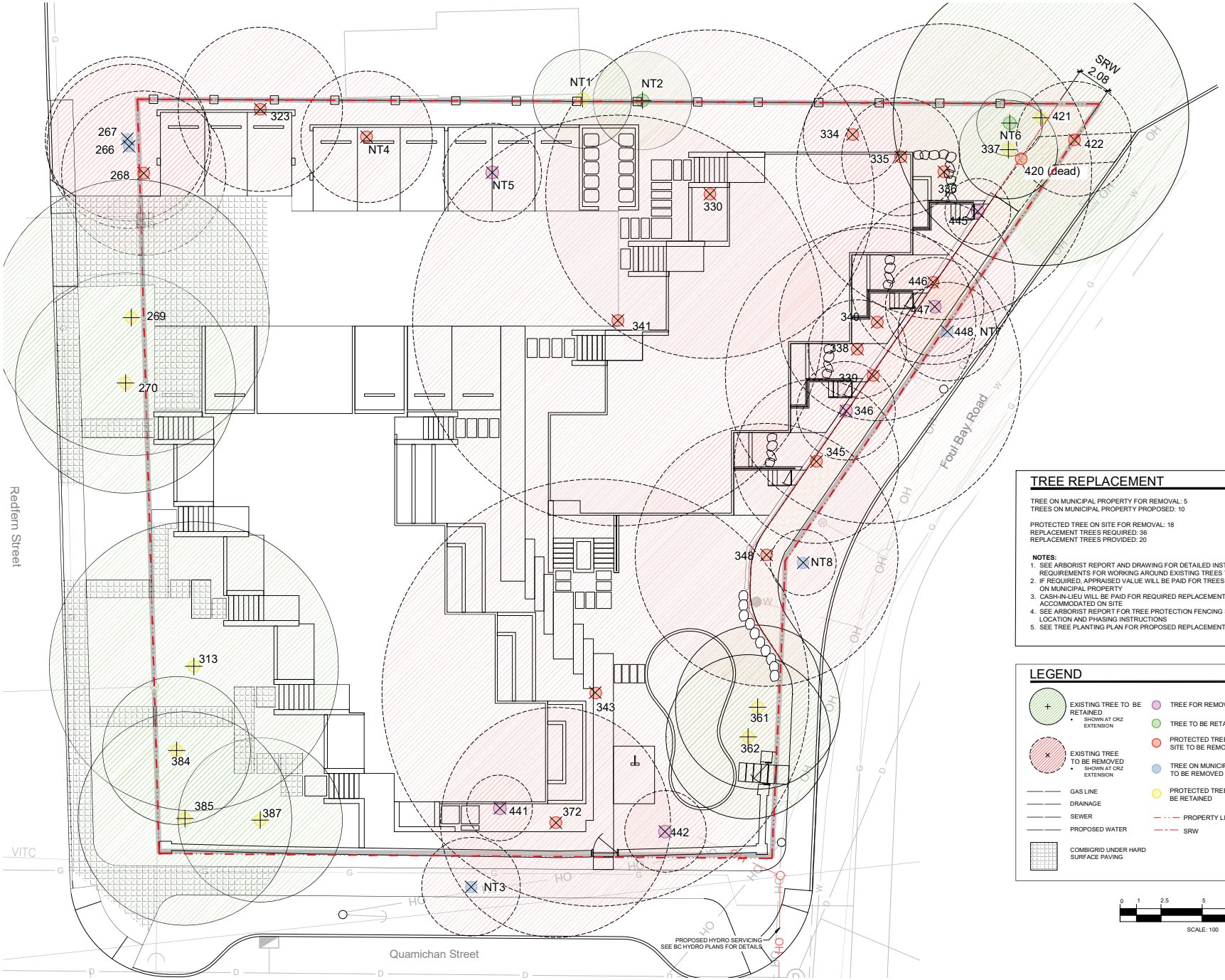
ISSUED FOR
DEVELOPMENT PERMIT
July 25, 2022

NORTH

Scale: 1:100

L2 Green Roof Plan

Date
July 25, 2022



TREE REPLACEMENT

TREE ON MUNICIPAL PROPERTY FOR REMOVAL: 5
TREES ON MUNICIPAL PROPERTY PROPOSED: 10

PROTECTED TREE ON SITE FOR REMOVAL: 18
REPLACEMENT TREES REQUIRED: 36
REPLACEMENT TREES PROVIDED: 20

NOTES:

1. SEE ARBORIST REPORT AND DRAWING FOR DETAILED INSTRUCTIONS AND REQUIREMENTS FOR WORKING AROUND EXISTING TREES TO REMAIN
2. IF REQUIRED, APPRAISED VALUE WILL BE PAID FOR TREES TO BE REMOVED ON MUNICIPAL PROPERTY
3. CASH-IN-LIEU WILL BE PAID FOR REQUIRED REPLACEMENT TREES NOT ACCOMMODATED ON SITE
4. SEE ARBORIST REPORT FOR TREE PROTECTION FENCING SPECIFICATIONS, LOCATION AND PHASING INSTRUCTIONS
5. SEE TREE PLANTING PLAN FOR PROPOSED REPLACEMENT TREES

LEGEND

- EXISTING TREE TO BE RETAINED
  - SHOWN AT CRZ EXTENSION
- EXISTING TREE TO BE REMOVED
  - SHOWN AT CRZ EXTENSION
- GAS LINE
- DRAINAGE
- SEWER
- PROPOSED WATER
- COMBIGRID UNDER HARD SURFACE PAVING
- TREE FOR REMOVAL
- TREE TO BE RETAINED
- PROTECTED TREE ON SITE TO BE REMOVED
- TREE ON MUNICIPAL PROPERTY TO BE REMOVED
- PROTECTED TREE TO BE RETAINED
- PROPERTY LINE
- SRW

0 1 2.5 5 10
SCALE: 100

NORTH

Scale: 1:100

L3 Tree Removal and Retention Plan

Date
July 25, 2022

BIOPHILIA design collective

Biophilia design collective Ltd.
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Info@biophiliacollective.ca

CLIENT NAME
Purdey Group

ADDRESS
902 Foul Bay Rd
Victoria, BC

DESIGNED BY
Bianca Bodley

DRAWN BY
KT

ISSUED FOR
DEVELOPMENT PERMIT
July 25, 2022

Tree ID	Common Name	Latin Name	DBH (cm) ~ approximate	Crown Spread (m)	CRZ (m)	Relative Tolerance	Health	Structure	Remarks and Recommendations	Bylaw protected	Retention Status	Reason for removal
296	Trembling aspen	*Populus tremuloides*	26,37	8.0	5.0	Moderate	Fair	Fair	Co-dominant, smaller stem dead, large deadwood, ivy on trunk	Municipal	X	Impacts from parking and changes in drainage.
297	Trembling aspen	*Populus tremuloides*	41.0	7.0	5.0	Moderate	Fair	Fair	Large deadwood, ivy on main trunk, broken limb in canopy	Municipal	X	Impacts from parking and changes in drainage.
298	Trembling aspen	*Populus tremuloides*	46.0	9.0	5.0	Moderate	Fair	Fair	Large deadwood, ivy on trunk, canker	Yes	X	Impacts from parking and changes in drainage.
299	Horse chestnut	*Aesculus hippocastanum*	33,34,35,45	8.0	8.4	Good	Fair	Fair/poor	Multi stem at 1 meter, included bark in stem unions.	Municipal	Retain	
270	Horse chestnut	*Aesculus hippocastanum*	84.0	14.0	6.7	Good	Fair	Fair/poor	Multi-stem at 3 meters. Internal crack in limb on south side	Municipal	Retain	
313	Garry oak	*Quercus garryana*	88.0	18.0	8.8	Good	Fair	Fair	Large deadwood, some epicormic growth	Yes	Retain	
323	Horse chestnut	*Aesculus hippocastanum*	51.0	9.0	5.0	Good	Fair	Fair	Ivy on main trunk, insect damage, canker, possible root disturbance from previous structure removal.	Yes	X	Parking and structure.
330	Garry oak	*Quercus garryana*	106.0	9.0	10.0	Good	Poor	Poor	Cambium dieback and decay in main trunk. Previously reduced, cavities in trunk.	Yes	X	In building
314	Garry oak	*Quercus garryana*	26.0	8.0	3.0	Good	Good	Fair	Asymmetric crown, canker on trunk	Yes	X	Too close to excavation for building
315	Garry oak	*Quercus garryana*	36.0	12.0	3.6	Good	Good	Fair	Some end weighted limbs, suppressed by adjacent tree	Yes	X	In building
316	Garry oak	*Quercus garryana*	67, 26	18.0	8.0	Good	Fair	Fair	May have originally been two trees, large deadwood	Yes	X	In building
317	Arbutus	*Arbutus menziesii*	12.0	5.0	3.0	Poor	Fair	Fair	Canker on lower trunk	Yes	Retain	
318	Arbutus	*Arbutus menziesii*	18.0	4.0	3.0	Poor	Good	Good		Yes	X	Too close to excavation for building
319	Garry oak	*Quercus garryana*	52,62	13.0	9.0	Good	Fair	Fair	co-dominant at 1.3 meters, ivy on trunk, asymmetric crown.	Yes	X	Too close to excavation for building
310	Garry oak	*Quercus garryana*	62.0	9.0	6.0	Good	Fair	Fair	Some large deadwood	Yes	X	In building
341	European Beech	*Fagus sylvatica*	85.0	17.0	12.5	Poor	Fair	Fair	Stunted growth at top, some epicormic growth, possible minor root injury from old house removal.	Yes	X	In building
343	European Beech	*Fagus sylvatica*	89.0	15.0	13.0	Poor	Fair	Fair	Armillaria fruiting bodies around base and on buttress roots. Recommend closer examination if retained.	Yes	X	Too close to excavation for building
345	Horse chestnut	*Aesculus hippocastanum*	64.0	10.0	5.0	Good	Fair	Fair	Co-dominant at 3meters ivy on trunk, cavities in old pruning wounds	Yes	X	Too close to excavation for building
346	Holly	*Ilex aquifolium*	28.0	4.0	3.0	Good	Good	Fair		No	X	Too close to excavation for building
348	European Birch	*Betula pendula*	65.0	9.0	8.0	Poor	Fair	Fair	Some tip dieback, possibly insect related	Yes	X	Too close to excavation for building, services.
361	Horse chestnut	*Aesculus hippocastanum*	62.0	9.0	5.0	Good	Fair	Fair	Pruned for utilities	Yes	Retain	
362	Holly	*Ilex aquifolium*	52.0	8.0	5.0	Good	Good	Fair/poor		Yes	Retain	
372	European Birch	*Betula pendula*	59.0	11.0	7.0	Poor	Fair	Fair/poor	Possible cavity in lower trunk. Closer examination recommended if retained	Yes	X	Too close to excavation for building
384	Horse chestnut	*Aesculus hippocastanum*	54.0	8.0	4.5	Good	Fair	Fair/poor	Multi stem at 2.5 meters	Yes	Retain	
385	Horse chestnut	*Aesculus hippocastanum*	80.0	12.0	6.5	Good	Fair	Fair	Multi stem, ivy on trunks	Yes	Retain	
387	Horse chestnut	*Aesculus hippocastanum*	66.0	9.0	5.0	Good	Fair	Fair/poor	Large stubbed off limbs	Yes	Retain	
420	Garry oak	*Quercus garryana*				Dead	Dead	Dead	Dead	Yes	X	Dead
421	Garry oak	*Quercus garryana*	91.0	13.0	9.0	Good	Fair/poor	Fair	Ivy on main trunk, tip dieback, sparse foliage	Yes	Retain	
422	Garry oak	*Quercus garryana*	34.0	4.0	3.5	Good	Poor	Poor	Very few live buds remaining	Yes	X	Poor specimen to retain.

Tree ID	Common Name	Latin Name	DBH (cm) ~ approximate	Crown Spread (m)	CRZ (m)	Relative Tolerance	Health	Structure	Remarks and Recommendations	By-law protected	Retention Status	Reason for removal
401	Holly	*Ilex aquifolium*	10.0	4.0	2.0	Good	Fair/poor	Fair/poor		No	X	Too close to excavation for building
402	Holly	*Ilex aquifolium*	17,17	5.0	2.5	Good	Fair/poor	Fair/poor		No	X	Landscaping choice, replace with a healthy young tree of a better species.
405	Holly	*Ilex aquifolium*	13.0	4.0	2.0	Good	Good	Good		No	X	Too close to excavation for building
406	Douglas fir	*Pseudotsuga menziesii*	30.0	8.0	5.0	Poor	Fair	Good	Young tree, some thinning foliage	Yes	X	Too close to excavation for building
407	Western Red cedar	*Thuja plicata*	19.0	6.0	3.0	Moderate	Good	Good	Young tree	No	X	Too close to excavation for building
408 (N..7)	Laburnum	*Laburnum anagyroides*	17,15,11	4.0	3.0	Moderate	Poor	Poor	Decay on 17 cm stem	Municipal	X	Remove as requested by city staff.
N.1 1	Chamaecyparis	*Chamaecyparis sp.*	22.0	5.0	3.0	Poor	Fair/poor	Fair	Sparse foliage, neighbours tree, within a meter of property line.	Neighbours	Retain	
N.1 2	Laburnum	*Laburnum anagyroides*	20, 10, 10	5.0	3.0	Moderate	Fair	Fair	Multi stem, neighbours tree, within a meter of property line.	Neighbours	Retain	
N.1 3	English hawthorn	*Crataegus laevigata*	28.0	6.0	3.0	Good	Fair	Fair	Ivy on trunk, municipal tree, suckering at base.	Municipal	X	Municipal sidewalk conflict
N.1 4	Holly	*Ilex aquifolium*	30,15	6.0	4.0	Good	Good	Fair		Yes	X	in parking
N.1 5	Laurel hedge	*Prunus laurocerasus*	Multi	18.0	3.0	Good	Good	Fair	Largest stem 20cm	No	X	in parking
N..6	Holly	*Ilex aquifolium*	12,8	4.0	2.0	Good	Good	Fair		No	Retain	
N..8	Holly	*Ilex aquifolium*	14.0	3.0	2.0	Good	Fair	Good		Municipal	X	Remove as requested by city staff.

Prepared by:
Talbo Mackenzie & Associates
ISA Certified and Consulting Arborists
Phone: (250) 479-8733
Fax: (250) 479-7050
email tmtreehelp@gmail.com

BIOPHILIA design collective

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CLIENT NAME
Purdey Group

ADDRESS
902 Foul Bay Rd
Victoria, BC

DESIGNED BY
Bianca Bodley

DRAWN BY
KT

ISSUED FOR
DEVELOPMENT PERMIT
July 25, 2022

Scale: NTS

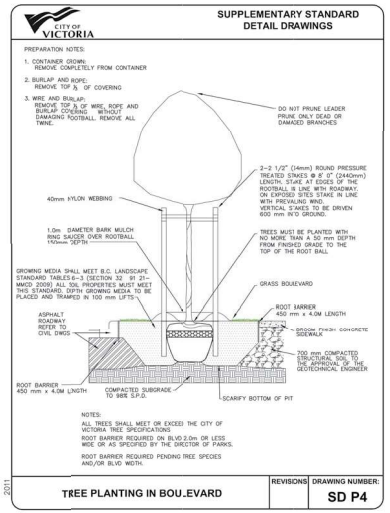
L4 Arborist Report of Existing Trees

Date
July 25, 2022



LEGEND

PROPOSED REPLACEMENT TREE
- ALL PROPOSED TREES TO BE IRRIGATED BY AN AUTOMATIC IRRIGATION SYSTEM



TREE PLANTING LIST

ID	Quantity	Symbol	Latin Name	Common Name	Category	Spread width at maturity	Height at maturity	Pollinator	Food bearing	Native	Non-native
H	4		Styrax japonicus	Japanese Snowbell	Tree	12m	8m	X			X
Qp	1		Quercus palustris	Pin Oak	Tree	10m	18m				X
Ar	4		Cornus nuttallii	Pacific Dogwood	Tree	4.5-12m	3-7.5m	X		X	X
Qg	4		Quercus garryana	Garry Oak	Tree	20m	20m			X	
Cn	3		Cornus kousa x nutalli 'Venus'	Venus Dogwood	Tree	4m	5m	X			X
Ac	8		Acer circinatum	Vine Maple	Tree	6m	8m			X	
N/A	10		Boulevard tree		Tree	N/A	N/A	N/A	N/A	N/A	N/A

NOTES:
1. PROPOSED BOULEVARD TREES SHALL BE PLANTED BY THE APPLICANT.
2. PARKS WILL REQUIRE [3] INSPECTIONS FOR TREE PLANTING: 1) INSPECTION OF SOIL AND PLANTING AREA 2) INSPECTION OF STOCK UPON DELIVERY 3) INSPECTION OF INSTALLED TREE WITH MULCH AND STAKING. TREE (S) MUST HAVE ONE DOMINANT CENTRAL LEADER OR SINGLE STRAIGHT TRUNK, 5-8 CM DIAMETER, CALIPER MEASURED 15 CM ABOVE GROUND, WELL BALANCED CROWN WITH BRANCHING STARTING AT 1.8 M ABOVE GROUND, PLANTED AS PER PLANTING OF TREES, SHRUBS AND GROUND COVERS (02 93 01 MMCD 2009 AND CITY OF VICTORIA SUPPLEMENT (Drawings SD P4 and SD P5).

0 1 2.5 5 10
SCALE: 100

NORTH

Scale: 1:100

L5 Tree Planting Plan

Date
July 25, 2022

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PLANT CATEGORIES	
Pollinator	flower producing shrub or perennial
Food bearing	Edible for animals or people
Native	On a recognized Southern Vancouver Island plant list

PLANT CATEGORY PERCENTAGE (by plant quantity)	
Total plant quantity	872
Pollinator	47%
Food bearing	27%
Native	64%
Non-native	36%

SHRUB PLANT LIST

ID	Quantity	Symbol	Latin Name	Common Name	Category	Spread width at maturity	Pollinator	Food bearing	Native	Non-native
S	10		Sambucus	Elderberry	Shrub	1.8m		X	X	
Rg	29		Rhododendron - glowing embers	Glowing Embers	Perennial	1.3m	X			X
Rc	2		Rhododendron - cunningham's white	Cunningham's White Rhododendron	Perennial	1.8m	X			X
I	58		Ilex	Gem Box	Shrub	0.75m				X
Sh	19		Sarcococca hookeriana	Sweetbox	Shrub	0.9m	X			X
Sr	24		Sarcococca ruscifolia	Sweetbox	Shrub	0.9m	X	X		X
Cc	58		Calamagrostis canadensis	Bluejoint Grass	Grass	0.9m			X	
Pp	138		Festuca saximontana	Rocky Mountain Fescue	Grass	0.7m			X	
Rh	100		Rubus hayata-koidzumii	Creeping Raspberry	Ground cover	1.5m		X		X
Au	100		Arctostaphylos uva-ursi	Kinnikinnick	Ground cover	0.9m		X	X	
P	25		PlectritisPlectritis congesta	Sea Blush	Perennial	0.3m	X		X	
D	25		Primula sect. Dodecatheon	Shooting Star	Perennial	0.3m	X		X	
E	25		Erythronium	Fawn Lily	Perennial	0.2m	X		X	
C	20		Camassia quamash	Common Camas	Perennial	0.3-0.6m	X		X	
A	20		Allium cernuum	Nodding Onion	Perennial	0.15-0.2m	X		X	
F	20		Fritillaria affinis	Chocolate Lily	Perennial	0.17-0.2m	X		X	
T	35		Triteleia grandiflora	Triplet Lilies	Perennial	0.2-0.4m	X		X	
L	35		Lilium columbianum	Columbia lily	Perennial	0.25-0.35m	X		X	
M	35		Mimulus guttatus	Monkey Flower	Perennial	0.25-0.30m	X		X	
Fr	40		Filipendula rubra	Queen of the Prairie	Perennial	0.9-1.2m	X			X
Ep	40		Echinacea purpurea	White Swan	Perennial	0.45m	X			X
Hd	7		Holodiscus discolor	Ocean Spray	Shrub	1.5m	X		X	
Oc	14		Oemleria cerasiformis	June Plum	Shrub	4m	X	X	X	

0 1 2.5 5 10
SCALE: 100

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NORTH

Scale: 1:100

L6 Shrub Planting Plan

Date
July 25, 2022

spring blooming bulbs


Allium, Onion


Camassia, Camas


Erythronium, Fawn lily


Lilium, Lily


Dodecatheon, Shooting stars


Mimulus, Monkey flower


Triteleia, Triplet lilies


Plectritis, Sea blush


Fritillaria, Chocolate lily

summer blooming bulbs


Echinacea purpurea, White swan


Filipendula rubra, Queen of the prairie

Grass

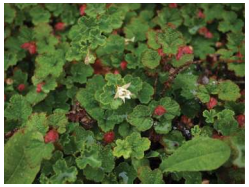

Festuca saximontana, Rocky Mountain grass


Calamagrostis canadensis, Bluejoint grass

sun plant palette


Philadelphus coronarius, Mock orange


Sambucus, Elderberry


Rubus hayata-koidzumii, Creeping raspberry


Ilex, Gem box


Arbutus unedo 'Compacta', Dwarf Strawberry

shade plant palette


Sarcococca hookeriana, Sweetbox

sun + shade plant palette


Vaccinium ovatum, Evergreen huckleberry


Rhododendron, Glowing embers


Arctostaphylos uva-ursi, Kinninnick


Rhododendron, Cunningham's white

tree


Hamamelis, Witch-hazel


Cornus nuttallii, Eddie's white wonder


Acer pseudosieboldianum, Korean maple

Sedum


Sedum spurium, Dragon's blood


Sedum spathulifolium, Cape blanco


Sedum album, White stonecrop

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L7 Planting Imagery

Date
July 25, 2022



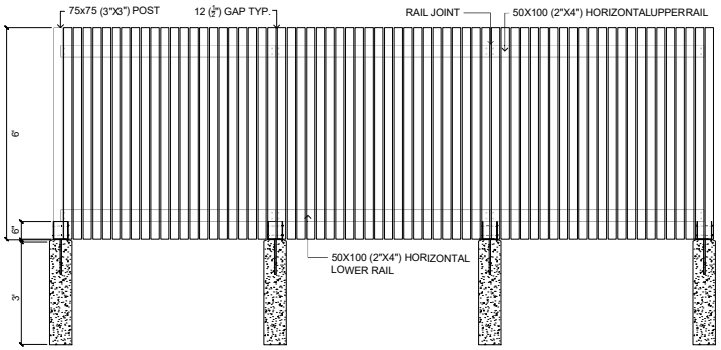
1 WINDOW WELL DETAIL DESIGNED TO MINIMIZE IMPACTS ON THE CRITICAL ROOT ZONE OF ADJACENT TREES



MORTARED HERITAGE STONE ROCK WALL FOR WINDOW WELL RETENTION



BENCH WITH REPURPOSED HERITAGE STONE



NOTES:
1. FINISHED SIDE OF VERTICAL FENCE BOARDS TO FACE INTO PROPERTY.
2. ALL LUMBER TO BE SMOOTH, FINISHED 4 SIDES, CLEAR GRADE SEASONED CEDAR - ALL RIPPED BOARDS TO BE PLANED SMOOTH
3. ALL SCREWS TO BE POLYMER COATED EXTERIOR WOOD SCREWS
4. ALL NUTS AND WASHERS TO BE SELF LOCKING STAINLESS STEEL
5. POST BASE ANCHOR TO BEBLACK POWDERCOATED STEEL

2 6' HT FENCE AT NORTH PROPERTY LINE DETAIL



BLACK VERTICAL FENCE

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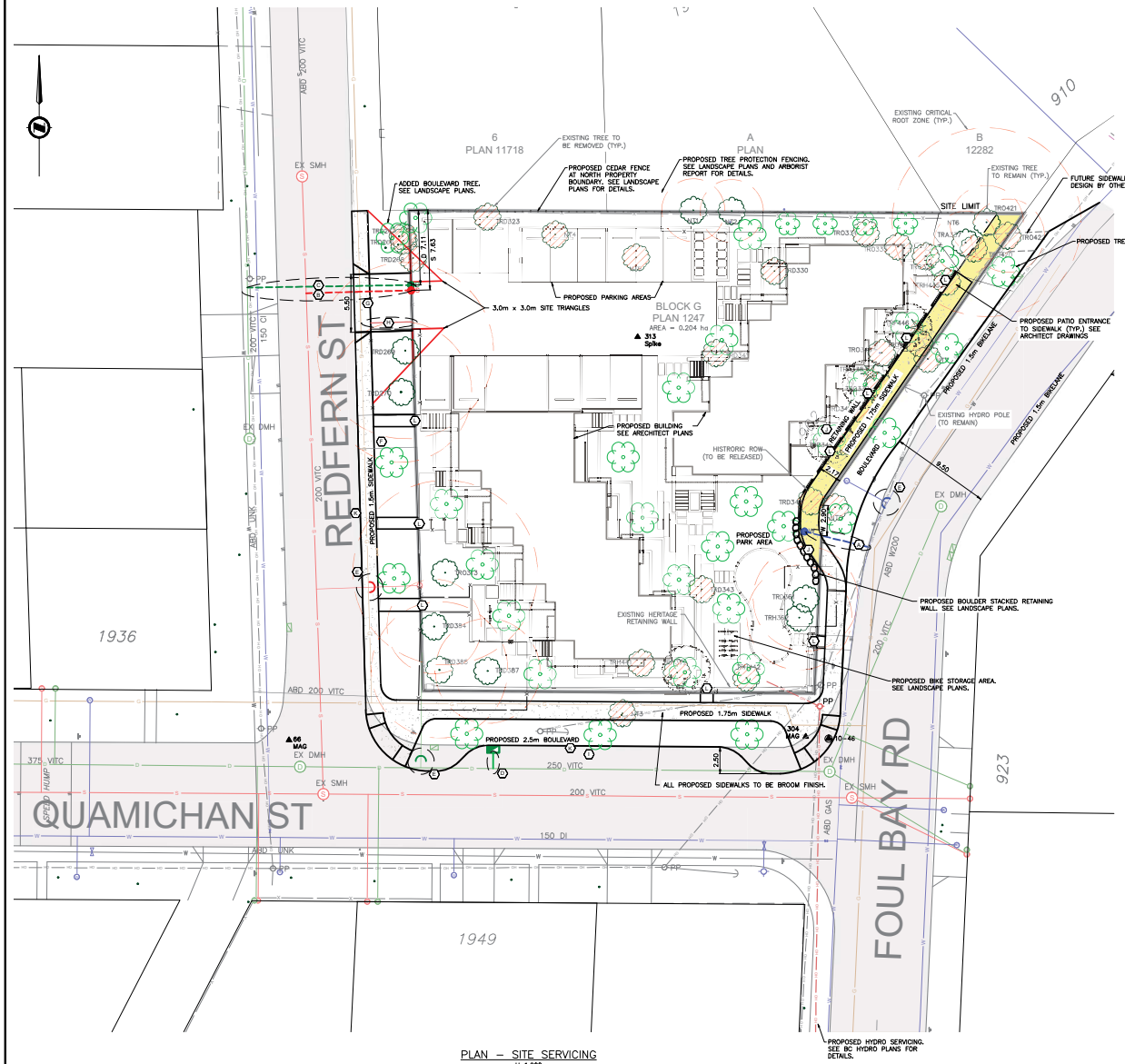
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L8 DESIGN DETAIL

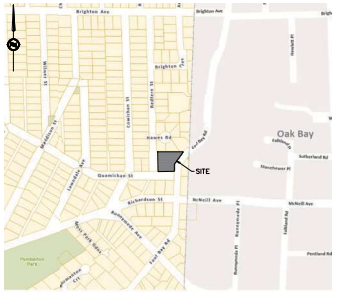
Date
July 25, 2022



PLAN – SITE SERVICING
H 1:200

SHEET NOTES:

(A) CITY OF VICTORIA TO INSTALL DOMESTIC WATER SERVICE COMPLETE WITH WATER METER TO PROPERTY LINE AT DEVELOPERS EXPENSE.
(B) CITY OF VICTORIA TO INSTALL 200mm SEWER SERVICE TO PROPERTY LINE AT DEVELOPERS EXPENSE.
(C) CITY OF VICTORIA TO INSTALL 200mm DRAIN SERVICE TO PROPERTY LINE AT DEVELOPERS EXPENSE.
(D) CITY OF VICTORIA TO INSTALL CATCH BASIN LEAD AT DEVELOPERS EXPENSE.
(E) CITY OF VICTORIA TO CAP AND ABANDON EXISTING SERVICES AT DEVELOPERS EXPENSE.
(F) CONTRACTOR TO REMOVE EXISTING DRIVEWAYS AND REINSTATE BOULEVARD AS REQUIRED.
(G) CONTRACTOR TO INSTALL DRIVEWAY IN ACCORDANCE WITH CoV SPECIFICATIONS.
(H) PROPOSED GAS SERVICE. DESIGN BY OTHERS.
(I) 23m LONG PARKING BAY – 2 HOUR TIME LIMITED PARKING.
(J) CONTRACTOR TO CONSTRUCT RETAINING WALL. SRW TO BE ADJUSTED AS REQUIRED SO THAT RETAINING WALL IS ON PRIVATE PROPERTY.
(K) CONTRACTOR TO RECONSTRUCT ENTIRE FRONTAGE OF QUAMICHAN STREET, REDFERN STREET, AND FOUL BAY ROAD COMPLETE WITH PAVING TO CENTERLINE OF ROAD.
(L) PROPOSED PRIVATE ACCESS FROM SIDEWALK TO PROPOSED BUILDING UNITS.



KEY PLAN
NTS

LEGAL DESCRIPTION: BLOCK G, SECTION 68, VICTORIA, PLAN 1247

R. TUCK
ASSOCIATE
CANADA
2022-05-13

1:200 0 4 12m

902 FOUL BAY ROAD PRELIMINARY SERVICING PLAN AND NOTES

Scale horiz. 1:200 Scale vert. N/A
Sheet 1 of 1
Eng. Project No. 32347

J E ANDERSON & ASSOCIATES
SURVEYORS - ENGINEERS
VICTORIA NANAIMO PARKSVILLE CAMPBELL RIVER
PHONE: 250-727-2214 info@jeanderson.com

V:_Projects\32347 – Aryze – Foul Bay\07 – Engineering\02 – Drawings & Sketches (Eng)\32347 – BASE.dwg Plot Date: May 3, 2022

E.1 Committee of the Whole

E.1.a Report from the February 24, 2022 COTW Meeting

E.1.a.b 902 Foul Bay Road: Rezoning Application No. 00737, Development Permit with Variances Application No. 00192 and Heritage Alteration Permit No. 00250 (Gonzales)

Moved By Councillor Alto
Seconded By Councillor Loveday

Rezoning Application
That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00737 for 902 Foul Bay Road, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Plan revisions to:
    a. label the visitor parking stall
    b. correct the tree retention plan, site plan and landscape plans, to the satisfaction of the Director of Parks, Recreation and Facilities
    c. consider relocation of the bicycle parking structure and make associated landscape changes and parking reductions if required, and the creation of adaptable units
    d. Consider the retention of additional trees.
2. Further analysis of the proposed tree planting plan and the viability of the proposed on-site and off-site trees, considering site servicing requirements, as well as proximity to proposed buildings on the subject property and existing buildings on the neighbouring properties, to the satisfaction of the Director of Parks, Recreation and Facilities.
3. An executed legal agreement between the owner and Capital Regional Housing Corporation or Capital Regional District to secure four dwelling units (two one-bedroom units and two three-bedroom units) to be sold at a minimum of 20% below market rate (below-market ownership units) in perpetuity, in a form and with terms to the satisfaction of the City Solicitor and the Director of Sustainable Planning and Community Development.
4. Preparation and execution of legal agreements, in a form satisfactory to the City Solicitor, to secure:

a. 2.08m wide statutory right-of-way along the Foul Bay Road frontage, with terms to the satisfaction of the Director of Engineering and Public Works

b. public realm improvements to include two curb bulbs on Quamichan Street, with terms to the satisfaction of the Director of Engineering and Public Works

c. car share vehicle memberships and usage credits for each dwelling unit, with terms to the satisfaction of the Director of Sustainable Planning and Community Development

d. future strata cannot restrict the rental of units to non-owners (with the exception of the four below-market ownership units), with terms to the satisfaction of the Director of Sustainable Planning and Community Development

e. a minimum of 16 three-bedroom units within the development, with terms to the satisfaction of the Director of Sustainable Planning and Community Development.

Development Permit with Variances Application
That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:

1. "That Council authorize the issuance of Development Permit with Variances Application No. 00192 for 902 Foul Bay Road, in accordance with:

   a.Plans date stamped August 6, 2021.

   b.Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:

   I. increase the building height from 10.5m to 11.54m;

   II. reduce the vehicle parking from 27 stalls to 16 stalls and the visitor parking from two stalls to one stall (with potential further reduction to accommodate relocated bicycle parking);

   III. reduce the front (Quamichan Street) setback requirement from 6m to 3.10 (to building) and 1.44m (to stairs);

   IV. reduce the flanking street (Redfern Street) setback from 6m to 3.37m (to building) and 0.37m (to stairs);

   V. reduce the flanking street (Foul Bay Road) setback from 6m to 3.73m;

   VI. reduce the rear yard setback from 4m to 3m.

2. That the Development Permit lapses two years from the date of this resolution."

Heritage Designation Bylaw Amendment and Heritage Alteration Permit Application

That Council,

1. Instruct staff to prepare a bylaw amending Heritage Designation (902 Foul Bay Road) Bylaw No. 495, to protect the historic stone wall that extends the full length of the property's Quamichan Street frontage and the iron gate located at the corner of Foul Bay Road and Quamichan Street and remove the other features (land, house and trees), that first and second reading of the bylaw be considered by Council and that a Public Hearing date be set.

2. Approve the new Statement of Significance for 902 Foul Bay Road attached as Attachment I to this report recognizing the rock wall as the primary historic feature of the property.

3. After the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:

   1. "That Council authorize the issuance of Heritage Alteration Permit Application No. 00250 for 902 Foul Bay Road, in accordance with:

   a. Plans date stamped August 6, 2021.

   b. The Rock Wall Heritage Conservation Plan by Donald Luxton and Associates Inc. dated March 2020.

   c. That the Heritage Alteration Permit lapses two years from the date of this resolution."

FOR (7): Mayor Helps, Councillor Alto, Councillor Andrew, Councillor Dubow, Councillor Loveday, Councillor Potts, Councillor Thornton-Joe,
OPPOSED (1): Councillor Young

CARRIED (7 to 1)

Committee of the Whole Report
For the Meeting of February 24, 2022

To: Committee of the Whole **Date:** February 10, 2022

From: Karen Hoese, Director, Sustainable Planning and Community Development

Subject: **Rezoning Application No. 00737 for 902 Foul Bay Road and associated Development Permit with Variances Application No. 00192 and Heritage Alteration Permit No. 00250**

RECOMMENDATION

Rezoning Application

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00737 for 902 Foul Bay Road, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Plan revisions to:
    a. label the visitor parking stall
    b. correct the tree retention plan, site plan and landscape plans, to the satisfaction of the Director of Parks, Recreation and Facilities
    c. relocate the bicycle parking structure and make associated landscape changes and parking reductions if required.
2. Further analysis of the proposed tree planting plan and the viability of the proposed on-site and off-site trees, considering site servicing requirements, as well as proximity to proposed buildings on the subject property and existing buildings on the neighbouring properties, to the satisfaction of the Director of Parks, Recreation and Facilities.
3. An executed legal agreement between the owner and Capital Regional Housing Corporation or Capital Regional District to secure four dwelling units (two one-bedroom units and two three-bedroom units) to be sold at a minimum of 20% below market rate (below-market ownership units) in perpetuity, in a form and with terms to the satisfaction of the City Solicitor and the Director of Sustainable Planning and Community Development.
4. Preparation and execution of legal agreements, in a form satisfactory to the City Solicitor, to secure:
    a. a 2.08m wide statutory right-of-way along the Foul Bay Road frontage, with terms to the satisfaction of the Director of Engineering and Public Works

b. public realm improvements to include two curb bulbs on Quamichan Street, with terms to the satisfaction of the Director of Engineering and Public Works
c. car share vehicle memberships and usage credits for each dwelling unit, with terms to the satisfaction of the Director of Sustainable Planning and Community Development
d. future strata cannot restrict the rental of units to non-owners (with the exception of the four below-market ownership units), with terms to the satisfaction of the Director of Sustainable Planning and Community Development
e. a minimum of 16 three-bedroom units within the development, with terms to the satisfaction of the Director of Sustainable Planning and Community Development.

Development Permit with Variances Application

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:

"1. That Council authorize the issuance of Development Permit with Variances Application No. 00192 for 902 Foul Bay Road, in accordance with:

a. Plans date stamped August 6, 2021.

b. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:

i. increase the building height from 10.5m to 11.54m;
ii. reduce the vehicle parking from 27 stalls to 16 stalls and the visitor parking from two stalls to one stall (with potential further reduction to accommodate relocated bicycle parking);
iii. reduce the front (Quamichan Street) setback requirement from 6m to 3.10 (to building) and 1.44m (to stairs);
iv. reduce the flanking street (Redfern Street) setback from 6m to 3.37m (to building) and 0.37m (to stairs);
v. reduce the flanking street (Foul Bay Road) setback from 6m to 3.73m;
vi. reduce the rear yard setback from 4m to 3m.

2. That the Development Permit lapses two years from the date of this resolution."

Heritage Designation Bylaw Amendment and Heritage Alteration Permit Application

That Council,

1. Instruct staff to prepare a bylaw amending Heritage Designation (902 Foul Bay Road) Bylaw No. 495, to protect the historic stone wall that extends the full length of the property's Quamichan Street frontage and the iron gate located at the corner of Foul Bay Road and Quamichan Street and remove the other features (land, house and trees), that first and second reading of the bylaw be considered by Council and that a Public Hearing date be set.

2. Approve the new Statement of Significance for 902 Foul Bay Road attached as Attachment I to this report recognizing the rock wall as the primary historic feature of the property.

3. After the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:

"1. That Council authorize the issuance of Heritage Alteration Permit Application No. 00250 for 902 Foul Bay Road, in accordance with:

   a. Plans date stamped August 6, 2021.

   b. The Rock Wall Heritage Conservation Plan by Donald Luxton and Associates Inc. dated March 2020.

   c. That the Heritage Alteration Permit lapses two years from the date of this resolution."

LEGISLATIVE AUTHORITY

This report discusses a Rezoning Application and a concurrent Development Permit with Variances Application together with a concurrent Heritage Alteration Permit Application.

Relevant Rezoning considerations relate to:

- proposed density
- change of use to allow ground-oriented multiple dwellings
- new regulations pertaining to height, siting and open site space.

The relevant Development Permit with Variances Permit considerations relate to:

- the application's consistency with design guidelines
- impact of variances.

The relevant Heritage Designation considerations are whether the historic rock wall has sufficient heritage value and heritage character to justify conservation. The relevant Heritage Alteration Permit considerations are the impact of the new pedestrian gate entrance to the rock wall.

Enabling Legislation

In accordance with Section 479 of the *Local Government Act*, Council may regulate within a zone the use of land, buildings and other structures, the density of the use of the land, building and other structures, the siting, size and dimensions of buildings and other structures as well as the uses that are permitted on the land and the location of uses on the land and within buildings and other structures.

In accordance with Section 483 of the *Local Government Act*, Council may enter into a Housing Agreement which may include terms agreed to by the owner regarding the occupancy of the housing units and provided such agreement does not vary the use of the density of the land from that permitted under the zoning bylaw.

In accordance with Section 489 of the *Local Government Act*, Council may issue a Development Permit in accordance with the applicable guidelines specified in the *Official Community Plan, 2012* (OCP). A Development Permit may vary or supplement the Zoning Regulation Bylaw but may not vary the use or density of the land from that specified in the Bylaw.

In accordance with Section 611 of the *Local Government Act*, Council may designate real property, in whole or in part, as protected property. In accordance with section 611 (2)(c), a heritage designation bylaw may apply to fixtures identified in the bylaw.

In accordance with Sections 617 and 618 of the *Local Government Act*, Council may issue a Heritage Alteration Permit which may be subject to terms consistent with the purpose of the heritage protection of the property, including: (i) conditions respecting the sequencing and timing of construction, (ii) conditions respecting the character of the alteration or action to be authorized, including landscaping and the siting, form, exterior design and finish of buildings and structures and (iii) security. Council may refuse to issue a Heritage Alteration Permit for an action that, in the opinion of Council, would not be consistent with the purpose of the heritage protection of the property.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Rezoning Application, Development Permit with Variances Application and a Heritage Alteration Permit Application for the property located at 902 Foul Bay Road. The proposal is to rezone from the R1-G Zone, Gonzales Single Family Dwelling District to a new site-specific zone in order to increase the density from 0.5:1 floor space ratio (FSR) to 0.72:1 FSR and allow for ground-oriented multiple dwellings at this location.

There is a concurrent Development Permit with Variances Application pertaining to the proposed form, character, exterior design, finishes and landscaping and variances related to height, siting, setbacks and parking for two three-storey buildings containing a total of 18 dwelling units.

A Heritage Designation Bylaw Amendment is also associated with this proposal and would retain protection of the historic stone wall that extends the full length of the property's Quamichan Street frontage and the iron gate located at the corner of Foul Bay Road and Quamichan Street and would remove the other features (land, house and trees). A concurrent Heritage Alteration Permit would allow for a new pedestrian opening and gate in the rock wall.

The following points were considered in assessing the Rezoning Application:

- The proposal is generally consistent with the *Official Community Plan, 2012* (OCP) Traditional Residential Urban Place Designation, which envisions ground-oriented residential uses with density up to 1:1 floor space ratio. The creation of 18 dwelling units, including 16 three-bedroom townhouses and two one-bedroom units, with four of the units secured as below market dwellings, would further the OCP goals of providing housing that is suitable for households with children and providing housing that meets the needs of different people at various income levels.
- The proposal is inconsistent with some of the housing policies in the *Gonzales Neighbourhood Community Plan*, which supports a continuation of existing zoning regulations that ensure the neighbourhood retains its detached dwelling character. However, the proposed mix of market and below market townhouse units is consistent with the Plan's objective to maintain and enhance a diversity of housing to meet different needs and incomes.
- The proposed 2.08m statutory right-of-way (SRW) along Foul Bay Road would provide space for a new sidewalk, boulevard, and street trees, which supports the OCP's transportation and placemaking policies.
- The proposed curb bulbs would introduce traffic calming measures that improve

walkability and enhance pedestrian safety.

The following points were considered in assessing the Development Permit with Variances Application:

- The proposed form and character of the development is generally consistent with the design guidelines for Development Permit Area 16: General Form and Character, which envisions buildings and landscaping that complements and enhances the established place character of an area through high quality architecture, landscape and urban design.
- The proposed height and rear yard setback variances are considered supportable because the shadowing and privacy impacts are minimal, and the siting of the buildings and landscaping helps to provide a sensitive transition with the adjacent properties.
- The proposed street setback variances are considered supportable as the proposal provides sufficient setback to accommodate some front landscaping and the setbacks are generally consistent with the existing street context, particularly along Redfern Street.
- The proposed parking variance is considered supportable as the applicant is offering car share memberships and usage credits as well as enhanced bicycle parking to mitigate the impact.
- The proposed siting of the accessory building (bicycle pavilion) is not considered supportable; while the design, materials and green roof help the building to integrate with the overall building and landscape design, there are potentially other less prominent and more suitable locations for the bicycle parking.
- The proposal would result in the loss of 28 trees and replacement with 42 new trees for a net increase of 14 trees.

The following points were considered in assessing the Heritage Designation Bylaw Amendment:

- The heritage designation bylaw for the site (Bylaw No. 03-04) included a 1911 Arts and Crafts style house, select interior features and the land, including the trees, rock wall and iron gate. The house was destroyed by arson in 2016.
- The trees, rock wall and iron gate survived the fire and remain technically protected under the bylaw, however staff and the Heritage Advisory Panel believe the degree of change to the trees and landscape is justified in the absence of the 1911 house, which was the central organizing feature.
- Retention and restoration of the rock wall is consistent with the objectives of the *Official Community Plan, 2012* (OCP), which promotes the conservation and enhancement of heritage property throughout the City.
- Retention of the rock wall is supported by the *Gonzales Neighbourhood Community Plan*, which encourages retention and protection of trees, rock walls and other character features.

The following points were considered in assessing the Heritage Alteration Permit:

- The proposed removal of 1.5% of the rock wall to create a new opening is a minor alteration to the wall that facilitates pedestrian access and is consistent with the minimal intervention principle in Standard 3 of the *Standards and Guidelines for the Conservation of Historic Places in Canada.*

BACKGROUND

Description of Proposal

This Rezoning Application is to rezone from the R1-G Zone, Gonzales Single Family Dwelling District to a new site-specific zone in order to increase the density to 0.72:1 floor space ratio and allow for ground-oriented multiple dwellings at this location.

The following differences from the standard RTM Zone, Traditional Residential Multiple Dwelling District, are being proposed and would be accommodated in the new zone:

- limit the maximum density to 0.72:1 FSR
- replace “multiple dwelling” with “ground-oriented multiple dwelling” as a permitted use.

The associated Development Permit with Variances Application is for two three-storey buildings containing a total of 18 dwelling units. One building would front onto Redfern Street and contain ten dwelling units in a stacked configuration. The other building would front onto Foul Bay Road and contain eight dwelling units also in a stacked configuration. Additional accessory structures include two carports located parallel to the north property line and a bicycle parking pavilion located near the corner of Foul Bay Road and Quamichan Street.

Specific details include:

- two buildings containing stacked townhouse units, with entrances oriented towards the street
- modern architectural expression that incorporates traditional building elements and materials that are characteristic of the neighbourhood, such as a gabled roof, inset balconies, shingle siding and raised front entries
- clustered surface parking accessed via Redfern Street and located under one of the townhouse buildings and carport structures
- green roofs above the bicycle pavilion, carport and flat roof portion of the townhouse building fronting Redfern Street.

Exterior materials include:

- painted shingle and panel cladding
- architectural and rendered concrete
- metal roof, awning and picket guard rails.

Landscape elements include:

- common outdoor space with playground
- benches constructed with repurposed heritage stone
- permeable pavers and permeable concrete
- extensive planting with primarily native species
- retention of the heritage rock wall and iron gate with one new pedestrian gate onto Quamichan Street
- 28 trees removed, 14 trees retained, 42 new trees planted.

The proposed variances are related to:

- increasing the building height from 10.5m to 11.54m
- reducing the vehicle parking from 27 stalls to 16 stalls and the visitor parking from two

stalls to one stall
- reducing the front (Quamichan Street) setback requirement from 6m to 3.10 (to building) and 1.44m (to stairs)
- reducing the flanking street (Redfern Street) setback from 6m to 3.37m (to building) and 0.37m (to stairs)
- reducing the flanking street (Foul Bay Road) setback from 6m to 3.73m
- reducing the rear yard setback from 4m to 3m
- allowing an accessory building to be in the front yard.

Land Use Context

The area is characterized by single-family dwellings – some with secondary suites or garden suites – and duplexes. Properties to the east, on the opposite side of Foul Bay Road, are in the District of Oak Bay.



Existing Site Development and Development Potential

The site has remained vacant since the heritage-designated house was destroyed by fire in

2016. The heritage designation also applies to the land, including the remaining rock wall, iron gate and trees.

Under the current R1-G Zone, the property could be subdivided into four lots. Each of the lots could then be developed with a single-family dwelling, with either a secondary suite or garden suite, for a total of eight dwellings.

Data Table

The following data table compares the proposal with the existing R1-G Zone, Gonzales Single Family District and the standard RTM Zone, Traditional Residential Multiple Dwelling District. An asterisk is used to identify where the proposal is less stringent than the existing or standard Zone. Additionally, the *Official Community Plan, 2012* (OCP) and *Gonzales Neighbourhood Community Plan* policies that pertain to the area have been included in this table.

Zoning Criteria	Proposal	R1-G (existing zone)	RTM (zone standard)	Plan Policy
Site area (m^2) – minimum	2042	460 (per lot)	920	-
Density (Floor Space Ratio) – maximum	**0.72:1***	0.5:1	1:1	1:1 (OCP)
Number of dwelling units	**18***	8 (4 lots, 2 dwelling units/lot)	-	-
Height (m) – maximum	**11.54***	7.6	10.5	-
Storeys – maximum	**3* (plus basement)**	2 (1.5 with basement)	3 (plus basement)	2-3 (OCP)
Site coverage (%) – maximum	**42.6***	30	50	Limit site coverage (Gonzales Plan)
Open site space (%) – minimum	**49***	50	30	Maintain and enhance open space (Gonzales Plan)
Setbacks (m) – minimum				
Front (Quamichan Street)	**3.10* (building) 1.44* (stairs)**	7.5 (building) 5.0 (stairs)	6.00	Variable setbacks
Rear (N)	**3.00***		4.00	-
Flanking Street (Redfern Street)	**3.37* (building) 0.37* (stairs)**	6.89 (15% of lot width)	6.00	-
Flanking Street	**3.73***	6.89 (15% of lot width)	6.00	-

Zoning Criteria	Proposal	R1-G (existing zone)	RTM (zone standard)	Plan Policy
(Foul Bay Road)				
Total vehicle parking – minimum	**16***	27	27	-
Visitor vehicle parking (included in total vehicle parking) – minimum	**1***	2	2	-
Bicycle parking stalls – minimum				
Long term	24	23	23	-
Short term	12	12	12	-

Description of Historic Place

The house at 902 Foul Bay Road was a large two-storey, Arts and Crafts style house built in 1911 for lawyer David S. Tait. The architect is unknown. The building had historical and aesthetic significance as a good example of the Arts and Crafts style. It was considered a good example of a grand home built for the wealthy business and professional classes in Rockland, Gonzales and Oak Bay during the early 20th century. Character defining elements included the building's exterior, select interior features, and the surrounding mature landscaping on a generous size lot. After the house was destroyed in 2016, the granite foundation blocks were salvaged and remain on site.

Heritage Designation Bylaw No. 03-04 covers the house, including select interior features as shown on the attached schedule, the land, including the trees, rock wall and iron gate.

Active Transportation

The application proposes a bicycle storage building with 24 long-term parking stalls (including two stalls for longer bikes) and a bike repair station which supports active transportation.

Public Realm

The following public realm improvements are proposed in association with this application:

- a statutory right-of-way (SRW) of 2.08m along the Foul Bay Road frontage to facilitate installation of a new 1.75m wide sidewalk and grassed boulevard with four street trees
- two curb bulbs on Quamichan Street.

These would be secured with a legal agreement, registered on the property's title, prior to Council giving final consideration of the proposed Zoning Regulation Bylaw Amendment.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant has consulted the Fairfield Gonzales CALUC at a Community Meeting held on November 21, 2019. A summary of the meeting is attached to this report.

Subsequent revisions to the proposal triggered the requirement for a second CALUC consultation period; therefore, consistent with the *CALUC Procedures for Processing Rezoning and Variance Applications*, the application was posted on the Development Tracker on December 7, 2020 along with an invitation to complete a comment form by January 7, 2021. Additionally, the applicant participated in a virtual CALUC meeting on December 17, 2020. A summary of the meeting along with the comment forms are attached to this report.

In response to the consultation the applicant has made minor changes to the proposal; however, the applicant has noted in the letter to Mayor and Council that more significant revisions to reduce density, height or number of units have not been made due to the impact it would have on the affordability aspects of the proposal.

ANALYSIS

Rezoning Application

Official Community Plan

The *Official Community Plan, 2012* (OCP) Urban Place Designation for the subject property is Traditional Residential, which supports ground-oriented residential uses. The OCP policies for Traditional Residential areas states that new development may have a density of generally up to 1:1 floor space ratio (FSR) and up to two-storeys in height and approximately three-storeys along arterial and secondary arterial roads. The OCP also notes that within each designation there will be a range of built forms and that decisions about the appropriate scale for a particular site will be based on an evaluation of the context in addition to consistency with OCP policies, other relevant City policies and local area plans.

Although the policy would generally discourage a three-storey building at this location given it is not located on an arterial road (Foul Bay is a collector and Redfern and Quamichan are local roads), the proposal is considered supportable because it aligns with many of the other OCP policies and would advance multiple strategic objectives, including:

- providing ground-oriented housing with a density that is less than 1:1 FSR and housing that is suitable for households with children (i.e. three-bedroom units)
- locating new housing along a transit corridor
- securing four below market homeownership units in perpetuity which provides more homeownership options for a range of people
- providing open space and new trees that contribute to the City's urban forest and providing a wide range of ecological and community benefits
- providing new boulevard and sidewalks which advance placemaking objectives by contributing to a more pedestrian friendly environment
- advancing transportation related objectives through the provision of an SRW along Foul Bay Road.

While the buildings are technically three-storeys, they present as 2.5-storey buildings with

partially above grade basements. The design aspects of the proposal including building height, are considered in more detail as part of the development permit review.

Gonzales Neighbourhood Community Plan

The proposal is inconsistent with some of the *Gonzales Neighbourhood Community Plan* housing policies, which encourage the retention of zoning and land use policies that maintain the detached dwelling character of the neighbourhood. However, the proposal would help to advance the Plan's housing objective of creating a range of housing that meets the needs of people with different needs and incomes, which can include townhouses marketed to first-time homebuyers. The criteria for qualified homebuyers for the four below market units secured with and administered by the Capital Region Housing Corporation include the requirement that purchasers are first-time homebuyers, which is defined as an individual that has not owned property in the past five years.

Inclusionary Housing and Community Amenity Contribution Policy

The *Inclusionary Housing and Community Amenity Policy* does not apply to this rezoning application because the subject site is designated as Traditional Residential.

Housing

The application, if approved, would add approximately 18 new strata residential units, which would increase the overall supply of housing in the area and contribute to the targets set out in the *Victoria Housing Strategy*. The proposed dwelling units would provide market housing options for those in the moderate- to above-moderate income brackets.

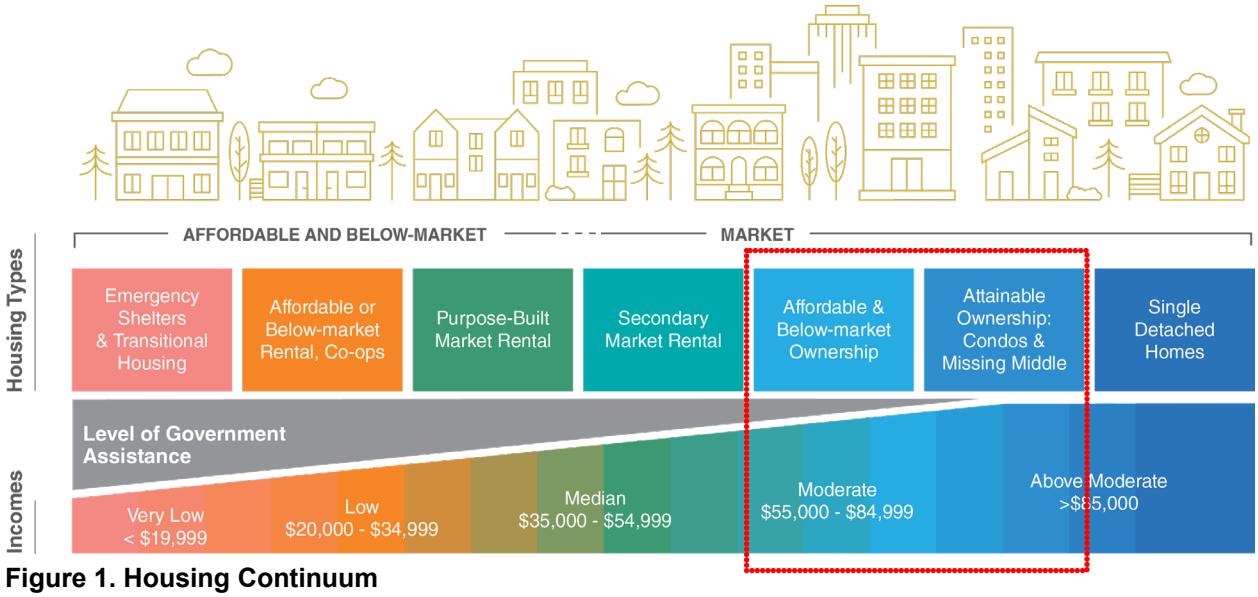


Figure 1. Housing Continuum

Affordability Targets

Attainable Ownership – 14 three-bedroom units
Below Market Ownership – two three-bedroom units and two one-bedroom units

Housing Mix

At present there is no policy that provides targets regarding housing mix and providing minimum unit types is not mandated by the City. However, the OCP identifies a mix of units as an objective and identifies the need for a diverse range of housing units including housing that is suitable for households with children. As submitted, this application proposes two one-bedroom and 16 three-bedroom units. The applicant is offering a legal agreement to secure the provision of at least 16 three-bedroom units.

Security of Tenure

The applicant is offering to secure four of the units (two one-bedroom and two three-bedroom) to be sold at a minimum of 20% below market value for the first and all subsequent sales. The Capital Region Housing Corporation (CRHC) would manage the appraisal and sale of the below-market units in perpetuity (see attached letter from the CRHC). This arrangement would be secured by the CRHC/CRD through legal agreements on title. In addition to income qualification, qualified buyers would have to have lived in the Capital Region for at least a year and have not owned a principal residence within the past five years. Further, a Housing Agreement with the City is also being proposed which would ensure that future strata bylaws could not prohibit the rental of the 14 remaining units.

Statutory Right-of-Way

The applicant is amenable to providing a 2.08m wide statutory right-of-way (SRW) along Foul Bay Road to help achieve a more standard collector roadway width. A retaining wall would be installed on the private property side of the SRW to allow for proper grading and drainage towards the street. A new sidewalk would be constructed within the SRW connecting to a new corner bulb at Foul Bay Road and Quamichan Street. North of the subject site, there is no sidewalk to connect to along Foul Bay Road, so the new sidewalk would stop short of the north property line to allow a cluster of trees to be retained. A new boulevard with three new street trees would be established between the sidewalk and travel lane.

Development Permit with Variance Application

Official Community Plan: Design Guidelines

The OCP identifies the site within Development Permit Area 16: General Form and Character. The objectives of this DPA are to integrate new developments in a manner that complements and enhances the established place character of an area through high-quality architecture, landscape and urban design. Other objectives include providing sensitive transitions to adjacent properties with built form of three-storeys or lower, and to achieve more liveable environments through considerations for human-scaled design, quality of open spaces, privacy impacts and safety and accessibility. Design Guidelines that apply to DPA 16 are the *Multi-Unit Residential, Commercial and Industrial Design Guidelines* (2012), *Advisory Design Guidelines for Buildings, Signs and Awnings* (2006), and *Guidelines for Fences, Gates and Shutters* (2010).

The proposal complies with the guidelines as follows:

- the building design, materials and landscaping respects the character of the established area and incorporates exterior materials that are high-quality, durable and will weather gracefully
- street-oriented entrances along Redfern Street and Quamichan Street are prominent and include entry canopies and porches that provide a transition from the public realm of

the street and sidewalk to the private realm of the proposed residences
- landscaped planting areas and communal outdoor spaces that foster community and contribute to the green character of the area
- pedestrian oriented site planning with clustered parking located to the side and rear of the buildings and accessed via a shared driveway, which limits the visual impact of vehicle parking on the existing street character and reduces the amount of site area taken up by vehicle access and parking.

The *Gonzales Neighbourhood Community Plan* encourages property owners to retain and protect trees, rock walls, and other unique features that contribute to the green character of the area. The Plan also supports new development that takes into consideration the character of the site, as well as the design of neighbouring buildings. The proposal would result in the loss of many of the mature trees on the site; however, the heritage rock wall would be retained and stone from the heritage house would be used to construct stone benches and featured in a retaining wall on the east side of the property.

The proposed stacked townhouses are considered consistent with the place character envisioned in the OCP for Development Permit Area 16 and generally compatible with the existing context. However, staff have encouraged the applicant to consider stepping down the building height or increasing the building setback at the northeast end of the site to provide a more sensitive transition in scale with the neighbouring property, limit shadowing impacts and potentially retain additional trees. The applicant has not made these changes due to concerns that it could have on the financial viability of the project and the ability to provide the below market housing units.

Variances

Although a site-specific zone is sought, variances are recommended (instead of inclusion in the new zone) for areas where the proposal is not consistent with the standard RTM Zone, Traditional Residential Multiple Dwelling District, and the Off-Street Parking Regulations (Schedule C) of the *Zoning Regulation Bylaw*. This ensures that if this proposal is not built, any potential future redevelopment would require Council's consideration and approval for these specific aspects.

Building Height

A variance is requested to increase the building height from 10.5m to 11.54m. To ameliorate the impact of the height variance, the building to the west is sited closer to the corner of Redfern Street and Quamichan Street. In addition, the portion of the building closest to the north property line would be stepped down in height by approximately 4m. The building to the east is set closer to the north property line (3.0m) so a row of trees is proposed along the property line to mitigate the impact of height. Furthermore, there are no windows on the upper storey and minimal windows on the lower storeys facing the north neighbours to mitigate any privacy concerns associated with overlook.

The applicant has provided a shadow analysis that demonstrates there would be minimal shadowing impacts on the properties to the north by the building to the west and some shadowing of the rear yard by the east building. The amount of shadow is likely less than would be created by subdivision and development of single-family dwellings under the existing zoning.

Parking

A variance is requested to reduce the required number of parking spaces from 27 stalls to 16

stalls and the visitor parking from two stalls to one stall. Although the proposed dwellings are ground-oriented, due to the stacked configuration of the units they are considered “multiple dwellings” under the Zoning Regulation Bylaw rather than “attached dwellings” (i.e. townhouses). The magnitude of the variance results from the proposal being assessed against the parking requirements for larger multiple dwellings (1.45 stalls per unit) rather than the requirements for attached dwellings (1 stall per unit). To mitigate the potential impacts from this variance the applicant is proposing car-share memberships and credits for each of the dwelling units, as well as enhanced bicycle parking facilities. It is also worth noting that for the four below market units the CRHC gives preference to qualified buyers that do not own vehicles.

Should Council choose to advance the application, plan revisions are recommended to explore an alternate location for the proposed bicycle parking. For example, the parking stalls located under the west building could potentially be converted to a secure bicycle parking area. This would result in a larger parking variance; however, it would also provide additional open site space at the most prominent corner of the site (Foul Bay Road and Quamichan Street) which could be use as planting space for additional bylaw replacement trees. The applicant has been encouraged to explore this option during the application review process, but there has been a reluctance to provide less than a 1:1 parking ratio for the larger three-bedroom units. However, now that two of the larger units secured with the CRHC are intended to be occupied by residents without cars, there may be less demand for on-site parking. The staff recommendation includes language to allow for some flexibility to allow the bike parking to be located where vehicle parking is currently indicated. A follow-up staff report would advise Council of the updated parking variance should this change be pursued.

Setbacks

Variances are requested to reduce the front yard, flanking street and rear yard setbacks (see table below).

	Proposal	**RTM Zone**
Front Yard Setback (Quamichan Street)	3.10* (building) 1.44* (stairs)	6.00
Flanking Street Setback (Redfern Street)	3.37* (building) 0.37* (stairs)	6.00
Flanking Street Setback (Foul Bay Road)	3.73*	6.00
Rear Yard Setback (North)	3.00*	4.00

The setback variances are considered supportable as the proposed siting would have minimal shadowing impacts on the adjacent properties and the units are staggered along the street frontages so that the setbacks are variable and provide space for front yard landscaping and tree retention. Furthermore, the proposed setback along Redfern Street is generally consistent with the setbacks for properties to the north of the subject site. The rear yard setback is considered supportable because only the north wall of the east building is set 3.0m from the property line, while the majority of the development is setback much further from the property line.

Accessibility

No accessibility improvements are proposed beyond what is required through the *British Columbia Building Code.*

Sustainability

As stated in the applicant's letter to Mayor and Council, the architectural design and site planning is based on passive design principles to increase solar gain in winter and minimize solar heating in summer. The proposed green roofs, permeable pavers and open space areas would also aid in on-site stormwater management.

Advisory Design Panel Review

The application was reviewed by the Advisory Design Panel on October 28, 2020 (minutes attached). Staff requested input from the Panel regarding the proposed interface with Foul Bay Road, transition in scale with surrounding properties and any other aspects of the proposal on which ADP chose to comment on. The Panel supported moving the application forward as presented with consideration of the Foul Bay frontage improvements and building interface with Foul Bay Road.

In response, the applicant has reconfigured the landscaping, patio entrances and pathways connecting to a new sidewalk along Foul Bay Road, creating more prominent connections and better delineation between private and public space.

Heritage Designation Bylaw Amendment and Heritage Alteration Permit Application

Standards and Guidelines for the Conservation of Historic Places in Canada (2010)

The Standards and Guidelines is a national framework for assessing alterations to historic places. It defines three main conservation treatments, a set of standards or conservation principles for all projects to follow and a set of specific guidelines for conserving different types of historic features. According to the *Official Community Plan, 2012* (OCP) and the *Heritage Property Protection Bylaw No. 95-62*, alterations to protected heritage property are required to adhere to the Standards and Guidelines.

Heritage Designation Bylaw Amendment

The Heritage Designation Bylaw for this property currently designates the house, including select interior features, the land, including the trees, stone wall and iron gate as protected heritage property. As noted, the 1911 house was destroyed in a fire and no longer exists. The proposal is to amend the Heritage Designation Bylaw to retain the designation of the remaining stone wall and iron gate.

The conservation treatment proposed for the remaining heritage features at 902 Foul Bay Road is *rehabilitation*, defined as the sensitive adaptation of an historic place for a continuing or compatible contemporary use, while protecting heritage value. The changes proposed to the land and trees on the site are significant, however the degree of change is justified in the absence of the 1911 house. The statement of significance describes the heritage features as a collection whose heritage value was interdependent. It focuses on the house as the central organizing feature that imparted meaning to the trees, wall and the lot. The statement of significance refers to the mature landscaping only as a setting for the house and does not

identify particular trees as individually significant features:

> *"The house is surrounded by mature landscaping on a generous size lot and retains its original relationship to the site, and these elements also define its character."*

Although the trees are protected under the heritage designation bylaw, they derived their heritage significance from the house. In staff's opinion, removal of references to trees and land from the designation bylaw is appropriate.

Heritage Alteration Permit

The rock wall extends the full length of the property's Quamichan Street frontage, with a small portion extending up Foul Bay Road. It has a total length of approximately 40 metres. The applicant proposes one new pedestrian opening in the rock wall, which would measure under 1.5 metres in width. Staff consider the removal of less than 4% of the wall to be a minor alteration that facilitates pedestrian access and would provide increased opportunities for residents to view the wall up close.

Heritage Advisory Panel Review

The application was reviewed by the Heritage Advisory Panel on November 10, 2020 and recommended that Council approve the application and limit the scope of the heritage designation to the wall alone:

> *That the Heritage Advisory Panel recommend to Council that Heritage Alteration Permit with Variances Application No. 00022 for 902 Foul Bay Road be approved with the following changes:*
>
> *The heritage designation bylaw be revised with the exception of the stone wall.*
>
> Carried (5 in favour, 1 opposed)

Tree Preservation Bylaw and Urban Forest Master Plan

The goals of the *Urban Forest Master Plan* include protecting, enhancing, and expanding Victoria's urban forest and optimizing community benefits from the urban forest in all neighbourhoods. This application was received between October 24, 2019, and July 1, 2021, so *Tree Preservation Bylaw* No. 05-106 (consolidated November 22, 2019) applies.

Forty-two trees have been inventoried. There are 33 trees located on the subject lot, seven trees on municipal property and two neighbouring trees impacted by the proposal. Of the trees inventoried, there are a total of 26 protected by the *Tree Preservation Bylaw*: 25 on the subject lot and one neighbouring tree.

Proposed Tree Removals

Twenty-eight trees are proposed for removal, including 17 trees on the subject lot that are protected under the *Tree Preservation Bylaw* and five municipal trees. Removal of trees #268, #323 and NT4 would be required for construction of the parking lot and covered car parking areas. Trees #330, #334, #335, #336, #338, #339, #340, #341, #345, #348, #372, and #446 are in the building area or immediately adjacent and their removal would be required for excavation and building construction. Tree #420 is dead, tree #422 is nearly dead and Parks is

recommending it's removal. Municipal poplar trees #266 and #267 will require removal for construction of the parking area and English hawthorn #NT3 will require removal for construction of off-site works. Municipal holly #NT8 and Laburnum #NT7 are proposed for removal at the request of City staff as these trees are not suitable candidates for retention.

The table below outlines details on *Tree Preservation Bylaw* protected and municipal trees proposed for removal:

Tree #	Species	Diameter (DBH)	Health Condition	Structural Condition	Ownership	Reason for Removal
268	Trembling aspen	46	Fair	Fair	Subject site	Construction of parking lot and covered parking
323	Horse chestnut	51	Fair	Fair	Subject site	Construction of parking lot and covered parking
330	Garry oak	106	Poor	Poor	Subject site	Within building outline
334	Garry oak	26	Good	Fair	Subject site	Within building outline
335	Garry oak	36	Good	Fair	Subject site	Within building outline
336	Garry oak	26, 67	Fair	Fair	Subject site	Excavation for building
338	Arbutus	18	Good	Good	Subject site	Excavation for building
339	Garry oak	52, 62	Fair	Fair	Subject site	Excavation for building
340	Garry oak	62	Fair	Fair	Subject site	Excavation for building
341	European beech	85	Fair	Fair	Subject site	Within building outline
343	European beech	89	Fair	Fair	Subject site	Excavation for building
345	Horse chestnut	64	Fair	Fair	Subject site	Excavation for building
348	European birch	65	Fair	Fair	Subject site	Excavation for building
372	European birch	59	Fair	Fair/Poor	Subject site	Excavation for

						building
420	Garry oak				Subject site	Tree is dead
446	Douglas fir	30	Fair	Good	Subject site	Excavation for building
NT4	Holly	15, 30	Good	Good	Subject site	Within parking lot outline
266	Trembling aspen	26, 37	Fair	Fair	Municipal	Construction of parking lot and covered parking
267	Trembling aspen	41	Fair	Fair	Municipal	Construction of parking lot and covered parking
NT7	Laburnum	11,15,17	Poor	Poor	Municipal	Unsuitable for retention
NT3	English Hawthorn	28	Good	Fair	Municipal	Construction of off-site works
NT8	Holly	14	Fair	Good	Municipal	Unsuitable for retention

Trees Proposed for Retention

A total of 14 trees would be retained with this development project including nine trees on the subject lot that are protected by the *Tree Preservation Bylaw*. Most of these trees are in the northeast and the southwest corners of the lot. The project arborist has recommended several mitigation measures at various stages of the project to ensure these trees shall be retained. The table below outlines details on all trees proposed for retention:

Tree #	Species	Diameter (DBH)	Health Condition	Structural Condition	Tree Preservation Bylaw Protected	Ownership
269	Horse chestnut	33,34,35,45	Fair	Fair/Poor	No	Municipal
270	Horse chestnut	84	Fair	Fair/Poor	No	Municipal
313	Garry oak	88	Fair	Fair	Yes	Subject site
337	Arbutus	12	Fair	Fair	Yes	Subject site
361	Horse chestnut	62	Fair	Fair	Yes	Subject site
362	Holly	52	Good	Fair/Poor	Yes	Subject site
384	Horse chestnut	54	Fair	Fair/Poor	Yes	Subject site

385	Horse chestnut	80	Fair	Fair	Yes	Subject site
387	Horse chestnut	66	Fair	Fair/Poor	Yes	Subject site
421	Garry oak	91	Fair/Poor	Fair	Yes	Subject site
422	Garry oak	34	Poor	Poor	Yes	Subject site
NT1	False cypress	22	Fair/Poor	Fair	No	Neighbour
NT2	Laburnum	10, 10, 20	Fair	Fair	Yes	Neighbour
NT6	Holly	8, 12	Good	Good	No	Subject Site

Proposed Planting and Replacement Tree Compensation

At the 2:1 replacement ratio outlined in the *Tree Preservation Bylaw*; 34 replacement trees are required. The proposed Tree Planting Plan shows 33 new trees for this development, with 21 identified as bylaw replacement trees. The other 12 new trees are proposed in areas with very limited growing space and therefore, based on the current proposal, cannot be considered replacement trees. Under the current proposal, the applicant would be required to pay $24,000 cash-in-lieu towards the City's Tree Reserve Fund ($2,000 X 12 replacement trees not planted). The recommendation for Council's consideration includes a requirement for the applicant to undertake further analysis of the viability of the additional 12 proposed trees prior to scheduling a public hearing.

Nine new boulevard trees are proposed. Approval of a statutory right-of-way along Foul Bay Road would allow for four municipal trees to be planted in a separated boulevard. Three boulevard trees are also proposed along Quamichan Street and two along Redfern Street.

Tree Impact Summary Table

Tree Status	Total # of Trees	To be REMOVED	To be PLANTED	NET CHANGE
On-site trees, protected by the *Tree Preservation Bylaw*	26	17	21	+4
On-site trees, not protected by the *Tree Preservation Bylaw*	7	6	12	+6
Municipal trees	7	5	9	+4
Neighbouring trees, protected by the *Tree Preservation Bylaw*	1	0	0	0
Neighbouring trees, not protected by the *Tree Preservation Bylaw*	1	0	0	0
Total	**42**	**28**	**42**	**+14**

Resource Impacts

The proposal would increase the number of street trees by four, which have an annual maintenance cost of $60 per tree or $240 in total.

CONCLUSION

The proposed rezoning is generally consistent with the OCP as it relates to ground-oriented residential development within Traditional Residential areas and furthers the goals in the OCP with regards to encouraging development along transit corridors and providing a diversity of housing types to create more home ownership options. The proposed development is generally consistent with the applicable Design Guidelines and includes high-quality building materials and landscape finishes. The contemporary design is supportable and complementary to the existing character of the area. The variances have been mitigated through design and the provision of TDM measures. Therefore, it is recommended for Council's consideration that the applications advance to a Public Hearing and Opportunity for Public Comment, subject to minor plan revisions and the preparation of legal agreements.

ALTERNATE MOTION

That Council decline Rezoning Application No. 00737, Development Permit with Variances Application No. 00192 and Heritage Alteration Permit No. 00250 for 902 Foul Bay Road.

Respectfully submitted,

Alec Johnston Senior Planner Development Services Division	John O'Reilly Senor Heritage Planner Development Services Division	Karen Hoese, Director Sustainable Planning and Community Development Department

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: Subject Map
- Attachment B: Plans date stamped August 6, 2021
- Attachment C: Letter from applicant to Mayor and Council received August 31, 2021
- Attachment D: Letter from Capital Region Housing Corporation dated November 16, 2021
- Attachment E: Pre-Application Consultation Comments from Online Feedback Form
- Attachment F: Fairfield Gonzales CALUC meeting summaries dated November 21, 2019 and December 17, 2020
- Attachment G: Advisory Design Panel minutes dated October 28, 2020
- Attachment H: Heritage Advisory Panel minutes dated November 10, 2020
- Attachment I: Rock wall heritage conservation plan including revised statement of significance, dated March 2020

- Attachment J: Arborist Report dated April 20, 2020 and amended August 4, 2021
- Attachment K: Correspondence (Letters received from residents).

E. LAND USE MATTERS

E.1 902 Foul Bay Road: Rezoning Application No. 00737, Development Permit with Variances Application No. 00192 and Heritage Alteration Permit No. 00250 (Gonzales)

Council received a report from the Director of Sustainable Planning & Community Development dated February 10, 2022 presenting Council with a Rezoning application, Development Permit with Variances application and Heritage Alteration Permit application to allow for an increase in density and for ground-oriented multiple dwellings on the site.

Committee discussed the following:

- *Removal of trees and tree retention*
- *Ramping for adaptable housing*
- *Current land use regulations in the local area*
- *Garden suite impact on tree coverage*
- *Expected cost of individual units*
- *Lack of existing tenants on the lot, preventing displacement of residents*
- *Moving the bike storage in order to retain more trees*

Moved By Mayor Helps
Seconded By Councillor Alto

Rezoning Application

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00737 for 902 Foul Bay Road, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Plan revisions to:
    a. label the visitor parking stall
    b. correct the tree retention plan, site plan and landscape plans, to the satisfaction of the Director of Parks, Recreation and Facilities
    c. relocate the bicycle parking structure and make associated landscape changes and parking reductions if required.
2. Further analysis of the proposed tree planting plan and the viability of the proposed on-site and off-site trees, considering site servicing requirements, as well as proximity to proposed buildings on the subject property and existing buildings on the neighbouring properties, to the satisfaction of the Director of Parks, Recreation and Facilities.
3. An executed legal agreement between the owner and Capital Regional Housing Corporation or Capital Regional District to secure four dwelling units (two one-bedroom units and two three-bedroom units) to be sold at a minimum of 20% below market rate (below-market ownership units) in

perpetuity, in a form and with terms to the satisfaction of the City Solicitor and the Director of Sustainable Planning and Community Development.

4. Preparation and execution of legal agreements, in a form satisfactory to the City Solicitor, to secure:

    a. 2.08m wide statutory right-of-way along the Foul Bay Road frontage, with terms to the satisfaction of the Director of Engineering and Public Works

    b. public realm improvements to include two curb bulbs on Quamichan Street, with terms to the satisfaction of the Director of Engineering and Public Works

    c. car share vehicle memberships and usage credits for each dwelling unit, with terms to the satisfaction of the Director of Sustainable Planning and Community Development

    d. future strata cannot restrict the rental of units to non-owners (with the exception of the four below-market ownership units), with terms to the satisfaction of the Director of Sustainable Planning and Community Development

    e. a minimum of 16 three-bedroom units within the development, with terms to the satisfaction of the Director of Sustainable Planning and Community Development.

Development Permit with Variances Application

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:

1. "That Council authorize the issuance of Development Permit with Variances Application No. 00192 for 902 Foul Bay Road, in accordance with:

    a. Plans date stamped August 6, 2021.

    b. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:

        i. increase the building height from 10.5m to 11.54m;

        ii. reduce the vehicle parking from 27 stalls to 16 stalls and the visitor parking from two stalls to one stall (with potential further reduction to accommodate relocated bicycle parking);

        iii. reduce the front (Quamichan Street) setback requirement from 6m to 3.10 (to building) and 1.44m (to stairs);

        iv. reduce the flanking street (Redfern Street) setback from 6m to 3.37m (to building) and 0.37m (to stairs);

        v. reduce the flanking street (Foul Bay Road) setback from 6m to 3.73m;

        vi. reduce the rear yard setback from 4m to 3m.

2. That the Development Permit lapses two years from the date of this resolution."

Heritage Designation Bylaw Amendment and Heritage Alteration Permit Application
That Council,

1. Instruct staff to prepare a bylaw amending Heritage Designation (902 Foul Bay Road) Bylaw No. 495, to protect the historic stone wall that extends the full length of the property's Quamichan Street frontage and the iron gate located at the corner of Foul Bay Road and Quamichan Street and remove the other features (land, house and trees), that first and second reading of the bylaw be considered by Council and that a Public Hearing date be set.
2. Approve the new Statement of Significance for 902 Foul Bay Road attached as Attachment I to this report recognizing the rock wall as the primary historic feature of the property.
3. After the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:
    1. "That Council authorize the issuance of Heritage Alteration Permit Application No. 00250 for 902 Foul Bay Road, in accordance with:
        a. Plans date stamped August 6, 2021.
        b. The Rock Wall Heritage Conservation Plan by Donald Luxton and Associates Inc. dated March 2020.
        c. That the Heritage Alteration Permit lapses two years from the date of this resolution."

Amendment:

Moved By Councillor Thornton-Joe
Seconded By Councillor Andrew

1. Plan revisions to:

    d. consider the retention of additional trees

CARRIED UNANIMOUSLY

Amendment:

Moved By Mayor Helps
Seconded By Councillor Loveday

1. Plan revisions to:

    c. **consider relocation of** ~~relocate~~ the bicycle parking structure and make associated landscape changes and parking reductions if required, **and the creation of adaptable units**

CARRIED UNANIMOUSLY

On the main motion as amended:

Rezoning Application

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00737 for 902 Foul Bay Road, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Plan revisions to:
    a. label the visitor parking stall
    b. correct the tree retention plan, site plan and landscape plans, to the satisfaction of the Director of Parks, Recreation and Facilities
    c. consider relocation of the bicycle parking structure and make associated landscape changes and parking reductions if required, and the creation of adaptable units.
    d. Consider the retention of additional trees
2. Further analysis of the proposed tree planting plan and the viability of the proposed on-site and off-site trees, considering site servicing requirements, as well as proximity to proposed buildings on the subject property and existing buildings on the neighbouring properties, to the satisfaction of the Director of Parks, Recreation and Facilities.
3. An executed legal agreement between the owner and Capital Regional Housing Corporation or Capital Regional District to secure four dwelling units (two one-bedroom units and two three-bedroom units) to be sold at a minimum of 20% below market rate (below-market ownership units) in perpetuity, in a form and with terms to the satisfaction of the City Solicitor and the Director of Sustainable Planning and Community Development.
4. Preparation and execution of legal agreements, in a form satisfactory to the City Solicitor, to secure:
    a. 2.08m wide statutory right-of-way along the Foul Bay Road frontage, with terms to the satisfaction of the Director of Engineering and Public Works
    b. public realm improvements to include two curb bulbs on Quamichan Street, with terms to the satisfaction of the Director of Engineering and Public Works
    c. car share vehicle memberships and usage credits for each dwelling unit, with terms to the satisfaction of the Director of Sustainable Planning and Community Development
    d. future strata cannot restrict the rental of units to non-owners (with the exception of the four below-market ownership units), with terms to the

satisfaction of the Director of Sustainable Planning and Community Development

e. a minimum of 16 three-bedroom units within the development, with terms to the satisfaction of the Director of Sustainable Planning and Community Development.

Development Permit with Variances Application

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:

1. "That Council authorize the issuance of Development Permit with Variances Application No. 00192 for 902 Foul Bay Road, in accordance with:
    a. Plans date stamped August 6, 2021.
    b. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:
        i. increase the building height from 10.5m to 11.54m;
        ii. reduce the vehicle parking from 27 stalls to 16 stalls and the visitor parking from two stalls to one stall (with potential further reduction to accommodate relocated bicycle parking);
        iii. reduce the front (Quamichan Street) setback requirement from 6m to 3.10 (to building) and 1.44m (to stairs);
        iv. reduce the flanking street (Redfern Street) setback from 6m to 3.37m (to building) and 0.37m (to stairs);
        v. reduce the flanking street (Foul Bay Road) setback from 6m to 3.73m;
        vi. reduce the rear yard setback from 4m to 3m.
2. That the Development Permit lapses two years from the date of this resolution."

Heritage Designation Bylaw Amendment and Heritage Alteration Permit Application

That Council,

1. Instruct staff to prepare a bylaw amending Heritage Designation (902 Foul Bay Road) Bylaw No. 495, to protect the historic stone wall that extends the full length of the property's Quamichan Street frontage and the iron gate located at the corner of Foul Bay Road and Quamichan Street and remove the other features (land, house and trees), that first and second reading of the bylaw be considered by Council and that a Public Hearing date be set.

2. Approve the new Statement of Significance for 902 Foul Bay Road attached as Attachment I to this report recognizing the rock wall as the primary historic feature of the property.

3. After the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:

    1. "That Council authorize the issuance of Heritage Alteration Permit Application No. 00250 for 902 Foul Bay Road, in accordance with:

        a. Plans date stamped August 6, 2021.

        b. The Rock Wall Heritage Conservation Plan by Donald Luxton and Associates Inc. dated March 2020.

        c. That the Heritage Alteration Permit lapses two years from the date of this resolution."

FOR (7): Mayor Helps, Councillor Alto, Councillor Andrew, Councillor Dubow, Councillor Loveday, Councillor Potts, and Councillor Thornton-Joe

OPPOSED (1): Councillor Young

CARRIED (7 to 1)

Committee recessed at 10:21 a.m. and reconvened at 10:26 a.m.

Mayor Helps left the meeting at 10:26 a.m., and Councillor Andrews assumed the role of Acting Mayor.

902 Foul Bay - Tree Retention and Tradeoff Analysis

Tree ID	Species	DBH (cm)	Health	Structure	Arborists Remarks	Bylaw protected	Tradeoff to protect
266	Trembling aspen	26, 37	Fair	Fair	Co-dominant, smaller stem dead, large deadwood, ivy on trunk	Municipal	Loss of two parking stalls plus work required to layout the buildings, driveway and utilities again which will potentially result in loss of trees or strata units elsewhere. Relocation of sewer and drain connection could have impacts on the heritage wall
267	Trembling aspen	41	Fair	Fair	Large deadwood, ivy on main trunk, broken limb in canopy	Municipal	Loss of two parking stalls plus work required to layout the buildings, driveway and utilities again which will potentially result in loss of trees or strata units elsewhere. Relocation of sewer and drain connection could have impacts on the heritage wall
268	Trembling aspen	46	Fair	Fair	Large deadwood, ivy on trunk, canker	Yes	Loss of two parking stalls plus work required to layout the buildings, driveway and utilities again which will potentially result in loss of trees or strata units elsewhere. Relocation of sewer and drain connection could have impacts on the heritage wall
323	Horse chestnut	51	Fair	Fair	Ivy on main trunk, insect damage, canker, possible root disturbance from previous structure removal.	Yes	Loss of four parking stalls.
330	Garry oak	106	Poor	Poor	Cambium dieback and decay in the main trunk. Previously reduced cavities in the trunk.	Yes	Loss of six units and one parking stall. Garbage and recycling will have to be relocated to another area on site which will potentially result in other impacts.
334	Garry oak	26	Good	Fair	Asymmetric crown, canker on trunk	Yes	Loss of two units.
335	Garry oak	36	Good	Fair	Some end weighted limbs, suppressed by adjacent tree	Yes	Loss of two units.
336	Garry oak	67, 26	Fair	Fair	May have originally been two trees, large deadwood	Yes	Loss of two units.
338	Arbutus	18	Good	Good		Yes	Loss of two units. Protecting this tree also conflicts with the sidewalk improvements along Foul Bay Rd.
339	Garry oak	52, 62	Fair	Fair	co-dominant at 1.3 meters, ivy on trunk, asymmetric crown.	Yes	Loss of six units and impacts two more. Protecting this tree will also render the sidewalk improvement along Foul Bay Rd almost impossible.
340	Garry oak	62	Fair	Fair	Some large deadwood	Yes	Loss of six units. Protecting this tree will also render the sidewalk improvement along Foul Bay Rd almost impossible.
341	European Beech	85	Fair	Fair	Stunted growth at top, some epicormic growth, possible minor root injury from old house removal.	Yes	Loss of ten units, five parking stalls and impacts to the garbage and recycling area.

902 Foul Bay - Tree Retention and Tradeoff Analysis

Tree ID	Species	DBH (cm)	Health	Structure	Arborists Remarks	Bylaw protected	Tradeoff to protect
343	European Beech	89	Fair	Fair	Armillaria fruiting bodies around base and on buttress roots. Recommend closer examination if retained.	Yes	Loss of eight units (one accessible). Impacts to proposed play area and sidewalks.
345	Horse chestnut	64	Fair	Fair	Co-dominant at 3meters ivy on trunk, cavities in old pruning wounds	Yes	Loss of two units. Protecting this tree will also render the sidewalk improvement along Foul Bay Rd almost impossible.
346	Holly	28	Good	Fair		No	Impacts to proposed entrances from Foul Bay Rd and the new sidewalk.
348	European Birch	65	Fair	Fair	Some tip dieback, possibly insect related	Yes	Loss of two units and impacts two more. Protecting this tree will also render the sidewalk improvement along Foul Bay Rd almost impossible.
372	European Birch	59	Fair	Fair/poor	Possible cavity in lower trunk. Closer examination recommended if retained	Yes	Loss of two units (one accessible)
420	Garry oak		Dead	Dead	Dead	Yes	Dead
422	Garry oak	34	Poor	Poor	Very few live buds remaining	Yes	Poor specimen to retain as per Arborists recommendation.
441	Holly	10	Fair/poor	Fair/poor		No	Loss of two units (one accessible)
442	Holly	17, 17	Fair/poor	Fair/poor		No	There is no potential impact in retaining this tree. We are proposing replacing it with a healthier younger tree.
445	Holly	13	Good	Good		No	Impacts to proposed entrances from Foul Bay Rd and the new sidewalk.
446	Douglas fir	30	Fair	Good	Young tree, some thinning foliage	Yes	Loss of two units and impacts two more. Protecting this tree will also conflict with the sidewalk improvement proposed along Foul Bay Rd.
447	Western Red cedar	19	Good	Good	Young tree	No	Impacts to proposed entrances from Foul Bay Rd and the new sidewalk.
448 (N.t.7)	Laburnum	17, 15, 11	Poor	Poor	Decay on 17 cm stem	Municipal	Remove as requested by city staff. Also conflicts with the sidewalk improvement.
N.t. 3	English hawthorn	28	Fair	Fair	Ivy on trunk, municipal tree, suckering at base.	Municipal	Conflicts with sidewalk improvement.
N.t. 4	Holly	30, 15	Good	Fair		Yes	Loss of three parking stalls
N.t. 5	Laurel hedge	Multi	Good	Fair	Largest stem 20cm	No	Loss of two parking stalls
N.t.8	Holly	14	Fair	Good		Municipal	Remove as requested by city staff due to potential impacts with sidewalk and road improvements.

NO. 22-063

A BYLAW OF THE CITY OF VICTORIA

The purposes of this Bylaw are to amend the Zoning Regulation Bylaw by creating the R2-63 Zone, Foul Bay Ground Oriented Dwelling District, and to rezone land known as 902 Foul Bay Road from the R1-G Zone, Gonzales Single Family Dwelling District, to the R2-63 Zone, Foul Bay Ground Oriented Dwelling District.

The Council of The Corporation of the City of Victoria in an open meeting assembled enacts the following provisions:

1 This Bylaw may be cited as the "ZONING REGULATION BYLAW, AMENDMENT BYLAW (NO. 1280)".

2 Bylaw No. 80-159, the Zoning Regulation Bylaw, is amended in the Table of Contents of Schedule "B" under the caption PART 2 – Attached Dwellings by adding the following words:

"2.159 R2-63, Foul Bay Ground Oriented Dwelling District"

3 The Zoning Regulation Bylaw is also amended by adding to Schedule B after Part 2.158 the provisions contained in Schedule 1 of this Bylaw.

4 The land known as 902 Foul Bay Road, legally described as PID: 007-652-674 Block G, Section 68, Victoria District, Plan 1247 and shown hatched on the attached map, is removed from the R1- G Zone, Gonzales Single Family Dwelling District, and placed in the R2-63 Zone, Foul Bay Ground Oriented Dwelling District.

READ A FIRST TIME the	day of	2022
READ A SECOND TIME the	day of	2022
Public hearing held on the	day of	2022
READ A THIRD TIME the	day of	2022
ADOPTED on the	day of	2022

CITY CLERK MAYOR

Schedule 1

PART 2.159 – R2-63 ZONE, FOUL BAY GROUND ORIENTED DWELLING DISTRICT

2.159.1 Definitions

In this Part, "ground-oriented multiple dwelling" means a building having no less than three and no more than ten self-contained dwelling units, at least half of which have individual and direct access to the outside for ingress and egress.

2.159.2 Number of Buildings

Notwithstanding section 19 of the General Regulations, more than one building is permitted on a lot provided each of the buildings is a ground-oriented multiple dwelling.

2.159.3 Permitted Uses in this Zone

The following uses are the only uses permitted in this Zone:

a. Uses permitted in the R1-G Zone, Gonzales Single Family Dwelling District, subject to the regulations set out in Part 1.6 of the Zoning Regulation Bylaw

b. Ground oriented multiple dwelling

2.159.4 Lot Area

a. Lot area (minimum)	920m^2
b. Lot width (minimum)	20m average lot width

2.159.5 Floor Area, Floor Space Ratio

a. Total floor area (maximum)	1475m^2
b. Floor space ratio (maximum)	0.72:1

2.159.6 Height

a. building height (maximum)	10.5m

2.159.7 Setbacks, Building Separation

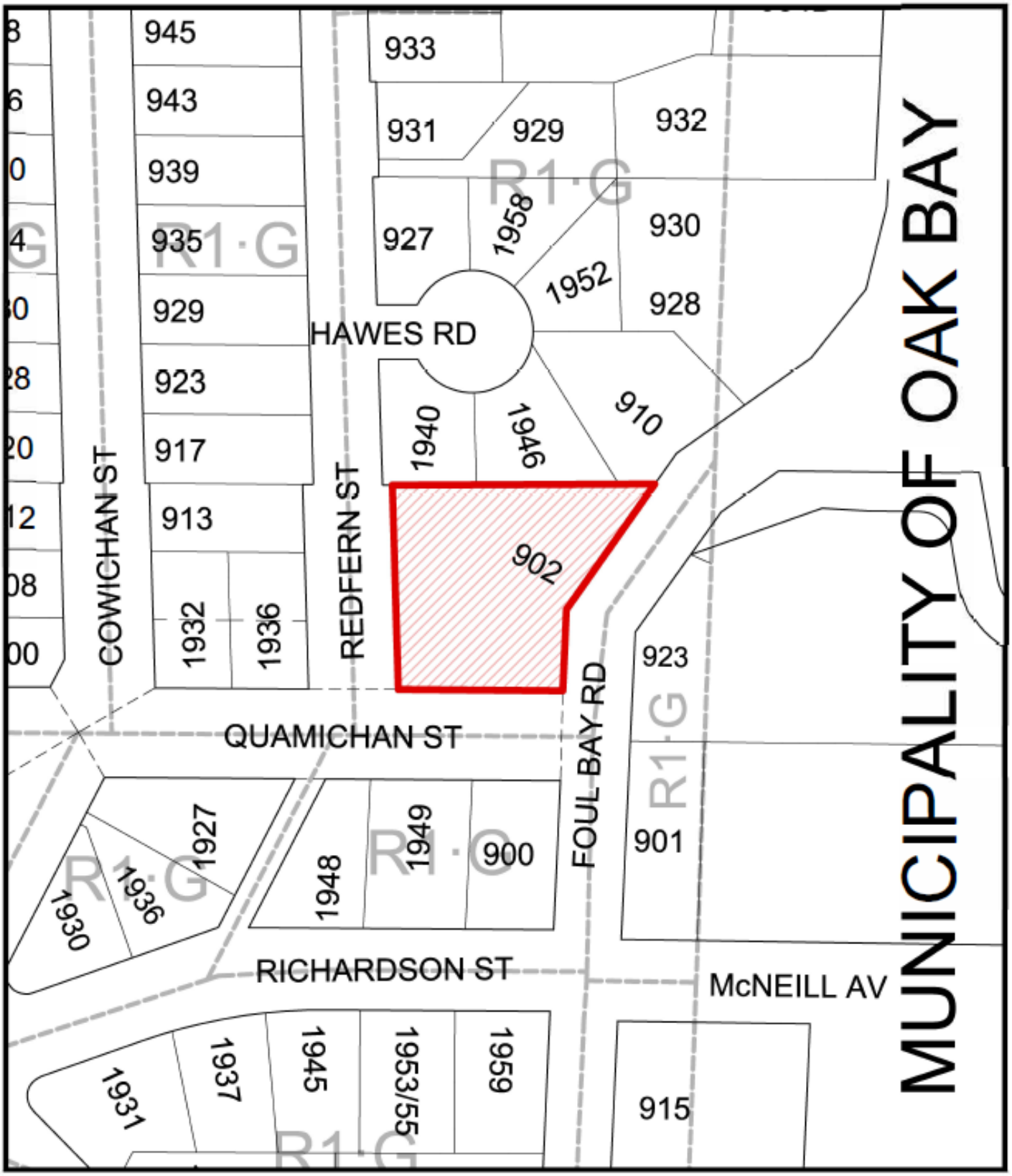
a. Front yard setback (minimum)	6.0m
b. Rear yard setback (minimum)	4.0m
c. Side yard setback from interior lot lines (minimum)	4.0m
d. Side yard setback on a flanking street for a corner lot (minimum)	6.0m
e. Building separation (minimum)	5.0m

2.159.8 Site Coverage, Open Site Space

a. Site Coverage (maximum)	50%
b. Open site space (minimum)	30%

2.159.9 Vehicle and Bicycle Parking

a. Vehicle parking (minimum)	Subject to the regulations in Schedule “C”
b. Bicycle parking (minimum)	Subject to the regulations in Schedule “C”



N

902 Foul Bay Road
Rezoning No.00737

CITY OF VICTORIA

NO. 22-065

HERITAGE DESIGNATION (902 FOUL BAY ROAD) BYLAW, AMENDMENT BYLAW (NO.1)

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the *Heritage Designation (902 Foul Bay Road) Bylaw (No. 495) 03-4* to remove the house as protected heritage property due to a fire that destroyed the house in 2016 and to remove the land and trees as protected heritage landscape features as the proximate protected house no longer exists.

Contents

1 Title
2 Amendments
3 Commencement

Under its statutory powers, including section 611 of the *Local Government Act*, the Council of the Corporation of the City of Victoria in an open meeting assembled enacts the following provisions:

Title

1 This Bylaw may be cited as the "HERITAGE DESIGNATION (902 FOUL BAY ROAD) BYLAW, AMENDMENT BYLAW (NO. 1)".

Amendments

2 The Heritage Designation (902 Foul Bay Road) Bylaw (No. 495) 03-4, is amended by:

(a) striking out the preamble and replacing it with:

"The purpose of this bylaw is to designate the Tait residence rock wall and iron gate located at 902 Foul Bay Road, which the City considers has heritage value and character, as protected heritage property.

Under its statutory powers, including section 611 of the *Local Government Act*, the Council of the Corporation of the City of Victoria in an open meeting assembled enacts the following provisions:"

(b) striking out section 2 and replacing it with:

"The stone wall and iron gate as described in the Statement of Significance prepared by Donald Luxton & Associates Inc. dated March 2020 attached to this bylaw at Schedule A, and located at 902 Foul Bay Rd. PID: 007-652-674, BLOCK G, SECTION 68, VICTORIA DISTRICT, PLAN 1247, are designated protected heritage real property."

(c) striking out Schedule A and replacing it with a new Schedule A attached to this bylaw as Appendix 1.

Commencement

3 This bylaw comes into force on adoption.

READ A FIRST TIME the	day of	2022
READ A SECOND TIME the	day of	2022
PUBLIC HEARING on the	day of	2022
READ A THIRD TIME the	day of	2022
ADOPTED on the	day of	2022

CITY CLERK MAYOR

Appendix 1

Schedule A

ROCK WALL HERITAGE CONSERVATION PLAN: 902 FOUL BAY ROAD, VICTORIA, B.C.

3. STATEMENT OF SIGNIFICANCE

Description of Historic Place

The Tait Residence Rock Wall is located on the southern perimeter of 902 Foul Bay Road in the City of Victoria. The site is located at the junction of Foul Bay Road, Quamichan Street, and Redfern Street. It is parallel to, and follows the slope of, Quamichan Street, then turns partially around the corner and faces Foul Bay Road. The Rock Wall is characterized by its rubble granite construction with grey raised rope tuckpointing and crenulated top. Two square random ashlar granite gate posts with crenulated caps stand at each end of the wall, and two matching gate posts with an iron gate stand at the end of the wall where it partially turns to face Foul Bay Road.

Heritage Value

The Tait Residence Rock Wall is valued for is connection with the Tait family, the owners of the original estate house on the property, and as a typical landscape feature seen in estates throughout Victoria. The design of the Rock Wall reflects the Arts and Crafts aesthetic of the Tait Residence, and reflects the nature of residential estate development in Victoria prior to the time of World War One.

The Rock Wall reflects the development of the property by lawyer David Spragge Tait (1878-1952) and his wife Emily Margaret (née Johnston, 1878-1965). It demonstrates the social, cultural, and aesthetic values of wealthy businessmen and women of the early twentieth century – values such as appreciation of architectural elegance, leisure and recreation. Informal landscaped gardens reflected the aesthetics of the Arts and Crafts movement, common at the time and often used for estate mansions as a symbol of affluence and good, modern taste, as well as an affinity for all things British.

The Tait Residence Rock Wall is additionally significant as an example of similar walls constructed to denote the boundaries of private estate properties in Victoria and Oak Bay. These historic landscape features reflected the wealth and societal position of the owner, and created a permeable edge that allowed view to and from the main house. The Tait Residence Rock Wall remains as a tangible reminder of the grand house that once stood here, in an area of similar estates and similar historic landscape features.

Character-Defining Elements

The character-defining elements of the Tait Residence Rock Wall include its:

- location running most of the width of the southern perimeter of the lot along Quamichan Street, then turning partially to the north along the eastern edge of the site;
- form, scale and massing as exemplified by its height, width and length;
- rubble granite construction of the wall with grey raised rope tuckpointing and crenulated top;
- two square random ashlar granite gate posts with crenulated caps that stand at each end of the wall facing Quamichan Street; and
- two square random ashlar granite gate posts with crenulated caps and an iron gate at the end of the wall where it turns to face Foul Bay Road.

NO. 22-064

HOUSING AGREEMENT (902 FOUL BAY ROAD) BYLAW

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to authorize an agreement to ensure that future strata bylaws cannot prohibit the rental of units (with the exception of four below market units) for the lands known as 902 Foul Bay Road, Victoria, BC.

Under its statutory powers, including section 483 of the *Local Government Act*, the Council of The Corporation of the City of Victoria in an open meeting assembled enacts the following provisions:

Title

1 This Bylaw may be cited as the "HOUSING AGREEMENT (902 FOUL BAY ROAD) BYLAW (2022)".

Agreement authorized

2 The Director of Sustainable Planning and Community Development is authorized to execute the Housing Agreement:

(a) substantially in the form attached to this Bylaw as Schedule A;

(b) between the City and Lions West Homes Ltd., Inc. No. BC1041886 or other registered owners from time to time of the lands described in subsection (c); and

(c) that applies to the lands known as 902 Foul Bay Road, Victoria, BC, legally described as:

PID: 007-652-674 Block G, Section 68, Victoria District, Plan 1247

READ A FIRST TIME the	day of	2022
READ A SECOND TIME the	day of	2022
READ A THIRD TIME the	day of	2022
ADOPTED on the	day of	2022

CITY CLERK MAYOR

HOUSING AGREEMENT
(Pursuant to section 483 of the *Local Government Act*)

BETWEEN:

THE CORPORATION OF THE CITY OF VICTORIA
#1 Centennial Square
Victoria, B.C.
V8W 1P6

(the "**City**")

AND:

LIONS WEST HOMES LTD.
Incorporation Number: BC1041886
2770 Dufferin Avenue
Victoria, B.C.
V8R 3L4

(the "**Owner**")

AND:

VANCOUVER CITY SAVINGS CREDIT UNION
Incorporation Number: FI 97
3075 Douglas Street
Victoria, B.C.

(the "**Existing Chargeholder**")

WHEREAS

A. Capitalized terms used herein will have the respective meanings ascribed to them in section 1.1 of this Agreement, unless the context otherwise clearly requires or they are elsewhere defined herein.

B. Under section 483 of the *Local Government Act* the City may, by bylaw, enter into a housing agreement with an owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 483(2) of the *Local Government Act*.

C. The Owner is the registered owner in fee simple of lands in the City of Victoria, British Columbia, with a civic address of 902 Foul Bay Road, and legally described as:

PID: 007-652-674
BLOCK G, SECTION 68, VICTORIA DISTRICT, PLAN 1247

(the "**Lands**").

D. The Owner wishes to construct the Development and is applying for a rezoning (Application No. 00737), a development permit with variances, and a heritage alteration permit.

E. The Dwelling Units are intended to be stratified and therefore will be subject to the *Strata Property Act* (British Columbia) and the bylaws of the strata corporation, but the intent of this housing agreement is to ensure the perpetual availability of rental units (in addition to owner-occupied units).

F. The City and the Owner wish to enter into this Agreement, as a housing agreement pursuant to section 483 of the *Local Government Act,* to establish the terms and conditions regarding the occupancy of the residential units identified in this housing agreement.

NOW THIS AGREEMENT WITNESSES that pursuant to section 483 of the *Local Government Act*, and in consideration of the premises and covenants contained in this agreement (the "**Agreement**"), the parties agree each with the other as follows:

1.0 Definitions

1.1 In this Agreement;

"**Below Market Units**" means the four self-contained dwelling units to be designated as below market home ownership units under a separate housing agreement and section 219 covenant with the Capital Regional District;

"**Business Day**" means Monday to Friday, other than any such day which is a statutory holiday in Victoria, British Columbia.

"**Development**" means the proposed development on the Lands to include eighteen (18) townhouse style residential strata lots.

"**Dwelling Units**" means any or all, as the context may require, of the self-contained residential dwelling units within the Development except the Below Market Units, and includes any dwelling unit that is developed on the Lands in future, whether as part of the Development or otherwise; and "**Dwelling Unit**" means any of such residential dwelling units located on the Lands except the Below Market Units.

"Immediate Family" includes a person's spouse, child, grandchild, parent, grandparent, sibling, niece and nephew, and includes the Immediate Family of the person's spouse.

"**Non-owner**" means a person other than a Related Person or the Owner.

"**Owner**" includes a person who acquires an interest in the Lands or any part of the Lands and is thereby bound by this Agreement, as referred to in section 7.3.

"**Related Person**" includes, where the registered or beneficial owner of the Lands or Dwelling Unit, as applicable, is:

(a) a corporation or society:

(i) an officer, director, shareholder, or member of such corporation or society, or of another entity which is a shareholder or member of such corporation or society; or

(ii) an Immediate Family of a person to whom paragraph (i) applies, or

(b) an individual, an Immediate Family of the registered or beneficial owner.

"**Strata Corporation**" means, for the portions of the Lands or any building on the Lands that is subdivided under the *Strata Property Act,* a strata corporation as defined in that Act, including the Owner while in control of the strata corporation and subsequently the individual strata lot owners collectively acting as the strata corporation.

"**Tenancy Agreement**" means a tenancy agreement pursuant to the *Residential Tenancy Act* that is regulated by that Act.

2.0 No Restrictions on Rentals

2.1 The Owner covenants and agrees that the Owner shall not take any steps, or enter into any agreements, or impose any rules or regulations whatsoever, the effect of which would be to prevent or restrict the Owner of a Dwelling Unit from renting that Dwelling Unit to a Non-owner under the terms of a Tenancy Agreement.

2.2 Without limiting the generality of section 2.1, the Owner covenants and agrees that it will not make application to deposit a strata plan for or in respect of the Lands or a building on the Lands unless the strata bylaws in no way restrict rental of any Dwelling Unit to a Non-owner under the terms of a Tenancy Agreement.

2.3 For certainty, if the Lands or the Development on the Lands are subdivided under the *Strata Property Act*, the Dwelling Units within the Development may be occupied by the Owners of the strata lots.

3.0 Reporting

3.1 The Owner covenants and agrees to provide to the City's Director of Sustainable Planning and Community Development, within thirty (30) days of the Director's written request, a report in writing confirming:

(a) the number, type and location by suite or strata lot number, of Dwelling Units that are being rented to Non-owners; and

(b) any changes or proposed changes to the Strata Corporation's bylaws that may affect the terms of this Agreement.

3.2 The Owner covenants and agrees:

(a) to exercise its voting rights in the Strata Corporation against the passage of any bylaws that would restrict the availability for rental of any Dwelling Unit under the terms of a Tenancy Agreement unless this Agreement is amended; and

(b) to notify the City of any proposed amendments to its strata bylaws.

3.3 The Owner acknowledges that it is within the City's sole discretion to consent or not to consent to modifications to this Agreement and that such consent may be withheld for any reason.

4.0 Notice to be Registered in Land Title Office

4.1 Notice of this Agreement (the "**Notice**") will be registered in the Land Title Office by the City in accordance with section 483 of the *Local Government Act*, and this Agreement is binding on the parties to this Agreement as well as all persons who acquire an interest in the Lands after registration of the Notice.

4.2 **Release of Notice.** For certainty, after the Development is subdivided by strata plan, the owner of the Below Market Units may apply to the City to release the Notice (as defined in section 4.1) from title to the Below Market Units. The City agrees to execute and deliver a release of this Housing Agreement from title to the Below Market Units, provided however that: (a) the City will have no obligation to execute any such release until a written request therefor from the owner of the Below Market Unit has been received by the City, which request will include the form of release in registerable form; (b) the cost of preparation of such release and the cost of registration of same in the Land Title Office will be paid by the owner; and (c) the City will have a reasonable time within which to execute such release and return the same to the owner for registration.

5.0 Liability

5.1 The Owner agrees to indemnify and saves harmless the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from all claims, demands, actions, damages, costs and liabilities, which all or any of them shall or may be liable for or suffer or incur or be put to by reason of or arising out of failure of the Owner to comply with the terms and conditions of this Agreement, or otherwise that would not have arisen "but for" this Agreement.

5.2 The Owner hereby releases and forever discharges the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from any and all claims, demands, actions, damages, economic loss, costs and liabilities which the Owner now has or hereafter may have with respect to or by reason of or arising out of the fact that the Lands are encumbered by and affected by this Agreement, or otherwise that would not have arisen "but for" this Agreement.

6.0 Priority Agreement

6.1 The Existing Chargeholder, as the registered holder of a charge by way of Mortgage and Assignment of Rents against the Lands, which said charges are registered in the Land Title Office at Victoria, British Columbia, under numbers CA6268732 and CA6268733, respectively, for and in consideration of the sum of One Dollar ($1.00) paid by the City (the receipt whereof is hereby acknowledged), agrees with the City that upon filing of a Notice with the Land Title Office that the Lands are subject to this Agreement, pursuant to section

483(5) of the *Local Government Act*, this Agreement shall be an encumbrance upon the Lands in priority to the said charges in the same manner and to the same effect as if Notice had been filed prior to the said charges.

7.0 General Provisions

7.1 **Notice.** If sent as follows, notice under this Agreement is considered to be received:

(a) upon confirmation of delivery by Canada Post if sent by registered mail,

(b) on the next Business Day if sent by facsimile or email with no notice of failure to deliver being received back by the sender, and

(c) on the date of delivery if hand-delivered, and

in the case of the City, addressed to:

City of Victoria
#1 Centennial Square
Victoria, B.C. V8W 1P6

Attention: Director of Sustainable Planning and Community Development
Fax: 250-361-0386
Email: khoese@victoria.ca

and in the case of the Owner, addressed to:

Lions West Homes Ltd.
2770 Dufferin Avenue
Victoria, B.C. V8R 3L4

Attention: Luke Mari
Email: luke@aryze.ca

or upon registration of a strata plan for the Lands, to the Strata Corporation, and to the Owner of any Dwelling Unit that is subject to the restrictions under section 2.1.

If a party identifies alternate contact information in writing to another party, notice is to be given to that alternate address.

If normal mail, email or facsimile service is interrupted by strike, work slowdown, force majeure, or other cause,

(d) notice sent by the impaired service is considered to be received on the date of delivery, and

(e) the sending party must use its best efforts to ensure prompt receipt of a notice by using other uninterrupted services, or by hand-delivering the notice.

7.2 **Time.** Time is of the essence of this Agreement.

7.3 **Binding Effect.** This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees. In accordance with section 483(6) of the *Local Government Act*, this Agreement and all obligations hereunder is binding on all who acquire an interest in the Lands, and the Owner only during the Owner's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Owner has an interest.

7.4 **Waiver.** The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

7.5 **Headings.** The division of this Agreement into articles and sections and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this Agreement.

7.6 **Language.** Words importing the singular number only will include the plural and vice versa, words importing the masculine gender will include the feminine and neuter genders and vice versa, and words importing persons will include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.

7.7 **Legislation**. Reference to any enactment includes any regulations, orders or directives made under the authority of that enactment, and is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.

7.8 **Equitable Remedies.** The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.

7.9 **Cumulative Remedies.** No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.

7.10 **Entire Agreement.** This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date it is made.

7.11 **Further Assurances.** Each of the parties will do, execute, and deliver, or cause to be done, executed, and delivered all such further acts, documents and things as may be reasonably required from time to time to give effect to this Agreement.

7.12 **Amendment.** This Agreement may be amended from time to time, by consent of the Owner and a bylaw duly passed by the Council of the City and thereafter if it is signed by the City and the Owner.

7.13 **Law Applicable.** This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

7.14 **No Derogation From Statutory Authority.** Nothing in this Agreement shall:

(a) limit, impair, fetter or derogate from the statutory powers of the City all of which powers may be exercised by the City from time to time and at any time to the fullest

extent that the City is enabled and no permissive bylaw enacted by the City, or permit, licence or approval, granted, made or issued thereunder, or pursuant to statute, by the City shall estop, limit or impair the City from relying upon and enforcing this Agreement; or

(b) relieve the Owner from complying with any enactment, including the City's bylaws, or any obligation of the Owner under any other agreement with the City.

7.15 **Severability.** If any section, term or provision of this Agreement is found to be partially or wholly illegal or unenforceable, then such sections or parts will be considered to be separate and severable from this Agreement and the remaining sections or parts of this Agreement, as the case may be, will be unaffected thereby and will remain and be enforceable to the fullest extent permitted by law as though the illegal or unenforceable parts or sections had never been included in this Agreement.

7.16 **Joint and Several.** The Owner, if more than one, are jointly and severally obligated to perform and observe each and every of the covenants, warranties and agreements herein contained by the Owner to be observed and performed.

7.17 **Counterparts.** This Agreement may be executed in counterparts and delivered by emailed PDF file, each of which will have the same effect as if all parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

7.18 **Effective Date.** This Agreement is effective as of the date of the signature of the last party to sign.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year last below written.

THE CORPORATION OF THE CITY OF VICTORIA by its authorized signatory:	)
_____ Karen Hoese, Director of Sustainable Planning and Community Development	)
Date signed:_____	)

LIONS WEST HOMES LTD.
by its authorized signatory:

Print Name: Nenad Barjaktarovic

Date signed: June 17, 2022

VANCOUVER CITY SAVINGS CREDIT UNION
by its authorized signatory(ies):

Print Name: _____

Print Name: _____

Date signed: _____

LIONS WEST HOMES LTD.
by its authorized signatory:

Print Name: Nenad Barjaktarovic

Date signed: _____

VANCOUVER CITY SAVINGS CREDIT UNION
by its authorized signatory(ies):

Print Name: Colton Cooke

Print Name: Moushumi Akter

Date signed: July 15, 2022