



## Planning and Land Use Committee Report

For the Meeting of September 4, 2014

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**To:** Planning and Land Use Committee **Date:** August 21, 2014  
**From:** Robert Woodland, Director  
Legislative & Regulatory Services  
**Subject:** Work without permit, and illegal use/suites – 121 Menzies St. / Bylaw File #40641

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### Executive Summary

The purpose of this report is to recommend the filing of a notice on title in respect to work that has been done without permit to convert this structure from its approved use as 7 light-housekeeping units to 11 self-contained suites and 2 light house-keeping units. In addition to extensive unpermitted building, plumbing, and electrical work inside the structure, this conversion also included the construction of a detached residential building in the rear yard. The property owner was directed to make application for the building, plumbing, and/or electrical permit(s) required to correct all of the deficiencies found and return the property to an approved use and configuration, however, has thus far failed to comply and the illegal use continues as before.

### Recommendation:

The Building Inspector recommends:

1. That the Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the property located at 121 Menzies Street, legally described as **Lot 27 Section 11 Beckley Farm Victoria Plan 753** indicating that a resolution relating to this property has been made under the authority delegated pursuant to Section 57(3) of the *Community Charter* and the provisions of the *Property Maintenance Delegation Bylaw*, and advise that further information regarding this resolution may be inspected at the Legislative & Regulatory Services Department in Victoria City Hall.

Respectfully submitted

Andrew Dolan  
Senior Bylaw Officer  
Bylaw & Licensing Services

Mark Hayden  
Manager,  
Bylaw & Licensing Services

Robert Woodland  
Director,  
Legislative & Regulatory  
Services

Report accepted and recommended by the City Manager:

Date:

  
August 26, 2014

## **List of Attachments**

Schedule A – Directional letter to owner dated April 2, 2014

Schedule B – Map showing location of subject property

Schedule C – Aerial photograph of subject property

Schedule D – Six photographs depicting work without permit.

## Purpose

The purpose of this report is to advise the Committee about the condition of the property at 121 Menzies Street, the enforcement action that has been taken in order to secure voluntary compliance with the *Zoning Regulation Bylaw* and Section 2.2(1) of the *Building Bylaw*, and to recommend to the Committee that under Section 57(3) of the *Community Charter* and the provisions of the *Property Maintenance Delegation Bylaw*, that a notice be filed in the Land Title Office in respect to this property to warn prospective purchasers and lenders of bylaw violations in respect to the work that has been done without permit to convert this structure from its approved use as 7 light-housekeeping units to 11 self-contained suites and 2 light house-keeping units, including the construction of a detached residential building in the rear yard.

## Background

Section 57 of the *Community Charter* allows the City to file notice on title of any property where the Building Inspector:

- a) observes a contravention of a municipal bylaw, provincial building regulation, or another enactment that relates to the construction or safety of buildings or other structures; or
- b) discovers that something was done without a permit or inspection.

Before notice may be filed on title under Section 57 of the *Community Charter*, Council must give the Building Inspector and the property owner an opportunity to be heard.

For the purpose of filing notices under Section 57(1)(b) of the *Community Charter*, the Manager of Bylaw & Licensing Services is a Building Inspector under the *Building Bylaw*.

Under the provisions of the *Property Maintenance Delegation Bylaw*, Council has delegated the authority to hold hearings and make decisions under Section 57 of the *Community Charter* to the Planning & Land Use Standing Committee.

Section 2.2(1) of the *Building Bylaw* states that a person must not:

- a) construct; or
- b) change the occupancy of a building unless the building's owner has obtained a building permit from the Building Inspector.

The *Building Bylaw* defines "occupancy" as the use or intended use of a building or part of a building for the shelter or support of persons, animals or property, according to the occupancy classifications for buildings set out in the *Building Code*.

## Issues & Analysis

The property at 121 Menzies St. is located in the James Bay neighbourhood in the R-2, Two Family Dwelling District. The approved use of the property per the approved building plans is 7 light house-keeping units (LHK). A light house-keeping unit contains cooking facilities but no private bathroom; instead, residents share a common bathroom or bathrooms depending upon the number of units.



The Victoria Fire Dept. referred this property to the City's RESPOND Team after attending a medical aid call for an individual living in a small basement unit. While onsite attending to the tenant they observed health and safety concerns within the living unit, including hoarded materials, and drug paraphernalia including used syringes, and what they believed to be unpermitted improvements to the basement area in general. Upon review of the observations made by the Fire Dept. it was determined that a health and safety inspection of the building was warranted.

As a result, the property was inspected by the RESPOND Team on March 18, 2014. The small basement unit that the Victoria Fire Dept. had previously attended had been cleaned-up considerably, however, it was found to have been created without permit in what was supposed to be unfinished basement storage space. The inspection also revealed that the actual use of the structure was 11 self-contained suites, each with a private bathroom, and 2 LHK that shared one common bathroom. The actual use and configuration of this structure was found to have changed significantly from that which was originally approved by the City of Victoria, and all of the work done to complete this extensive conversion was done without any of the required building, plumbing, and/or electrical permits or inspections. In addition, the property was found to be in violation of a number of provisions of the City's *Zoning Regulation Bylaw* and, as the owner was renting accommodation without a business license, was in violation of the *Business License Bylaw*.

Following the inspection on March 18, 2014 the Electrical Inspector issued an order to the owner that required him to hire a qualified electrical contractor to complete an electrical safety survey and correct any deficiencies within 30 days. The owner did comply and the electrical safety survey was completed, and deficiencies were corrected with the required electrical permit. These deficiencies included an illegal hydro meter by-pass that, when reported to BC Hydro, led them to remove electrical service from the building temporarily. The owner was fined and billed for unpaid electrical service. To date, the electrical permit for the safety survey and to repair the deficiencies is the only permit that has been applied for and/or issued for this property.

Despite the property owner's stated intention to comply and bring the property into compliance he has thus far failed to do so. Staff believes that the task of bringing the property into compliance may be overwhelming due to the vast scope of the unpermitted improvements and have therefore recommended that the owner retain a professional Architect and/or Home Designer to assist in the process. Since then staff have received a few enquiries from local design professionals; however, it is not believed that anyone has agreed to take on what is expected to be a time consuming and costly job.

In the interim, the building is fully occupied, and while there may not be any visible hazards which could pose an imminent risk to the health and safety of the buildings occupants, the majority of the unpermitted improvements have not yet been inspected as they are hidden behind the walls. These unpermitted improvements remain potentially unsafe.

### **Options & Impacts**

The filing of a notice on land title is part of a graduated enforcement strategy intended to bring a property into compliance with the applicable bylaws and regulations. A notice on title provides incentive to the property owner to resolve the outstanding issues as it serves to warn lenders or prospective purchasers that work has been done without a permit. Filing a notice on title under Sec. 57 of the *Community Charter* is therefore intended to ensure that a potential purchaser is aware of bylaw violations in respect to the work that has been done without permit to convert this structure from its approved use as 7 light-housekeeping units to 11 self-contained suites and 2

## Recommendation

The Building Inspector recommends:

1. That the Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the property located at 121 Menzies Street, legally described as **Lot 27 Section 11 Beckley Farm Victoria Plan 753** indicating that a resolution relating to this property has been made under the authority delegated pursuant to Section 57(3) of the *Community Charter* and the provisions of the *Property Maintenance Delegation Bylaw*, and advise that further information regarding this resolution may be inspected at the Legislative & Regulatory Services Department in Victoria City Hall.





April 2, 2014

Legislative and  
Regulatory Services  
Department

Mr. Gordon D. Osborne  
121 Menzies St.  
Victoria, BC  
V8V 2G4

Bylaw and Licensing  
Services Division

1 Centennial Square  
Victoria BC V8W 1P6

Re: RESPOND inspection of 121 Menzies St. / Bylaw File #40641

Dear Sir,

This letter is a follow-up to the multi-agency safety and compliance inspection that was conducted at 121 Menzies Street on March 18, 2014. This inspection and my subsequent search of city records have confirmed that this property is in violation of a number of city bylaws, including but not limited to, the *Zoning Regulation Bylaw*, *Building Bylaw*, *Plumbing Bylaw*, *Electrical Safety Regulation Bylaw*, and the *Business License Bylaw*. These bylaw violations are significant and so they will be explained in detail below:

#### Zoning Regulation Bylaw

This property is located in the R-2, Two Family Dwelling District and the legal use of the structure is 7 light-housekeeping units (LHK). A light-housekeeping unit contains cooking facilities but no private bathroom; resident share a common bathroom. The inspection revealed that the actual use of the property is 11 self-contained suites, each with a private bathroom and 2 LHK that share a common bathroom. Therefore, the actual use of this structure differs significantly than that which was originally approved by the City of Victoria. All of this work has evidently been completed without permits and/or the required inspections.

As a result, it has been determined that the current use and/or occupancy of this property is in contravention of the approved use. A person must not use or occupy, or allow or permit another person to use or occupy land or a building in contravention of the approved use as per Sch. B Part 2.1 Sec. 2 of the *Zoning Regulation Bylaw*. This is an offence for which the penalty is a fine of \$200 per day for each day that the offence continues. In addition, possessing and/or occupying an additional self-contained dwelling unit and/or suite(s) are also a violation for which the penalty is a fine of \$300 per day for each day that the offence continues as per Sch. B Part 2.1 Sec. 2 of the *Zoning Regulation Bylaw*.

#### Building Bylaw

The inspection revealed a number of safety issues and violations related to a substantial amount of building work that has been done without permit and/or inspection. The Building Inspector's report of his findings is very comprehensive and

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To Contact

Telephone: 250.361.0215  
E-Mail: [bylawenforcement@victoria.ca](mailto:bylawenforcement@victoria.ca)

Fax: 250.361.0205  
Web: [www.victoria.ca](http://www.victoria.ca)

includes a number of options that you may consider in order to bring this property into compliance. The complete report is enclosed for your review. Completing work and/or changing the occupancy of a building without a building permit are an offence for which the penalty is a fine of \$400 per day as per Sec. 2.2(1) of the *Building Bylaw*. Occupying or permitting the occupancy of a building without an approved occupancy permit is an offence with an additional fine of \$400 per day as per Sec. 2.2(2) of the *Building Bylaw*.

#### Plumbing Bylaw

The inspection revealed a number of safety issues and violations related to a substantial amount of plumbing work that has been done without permit and/or inspection. The report prepared by the Building Inspector also serves to describe the scope of the unpermitted plumbing work. This unpermitted work constitutes numerous offences for which there are penalties. The fine for completing plumbing work without a valid plumbing permit alone is \$400 per day as per Sec. 6(1) of the *Plumbing Bylaw*.

#### Electrical Safety Regulation Bylaw

The inspection revealed a number of safety issues and violations related to a substantial amount of electrical work that have been done without permit and/or inspection. The report prepared by the Building Inspector also serves to describe the scope of the unpermitted electrical work. Due to the amount of unpermitted work, the Electrical Inspector requires that a qualified electrical contractor conduct an electrical safety survey and load calculation, and correct any and all deficiencies. Electrical permits and follow-up inspections will be required. Completing electrical work without a valid electrical permit is an offence for which the penalty is a fine of \$400 per day as per Sec. 5(1) of the *Electrical Safety Regulation Bylaw*.

#### Business License Bylaw

According to City records there is not now, nor has there ever been, a valid business license for the rental of rooms and/or suites of rooms at this location. Conducting business without a valid business license is an offence for which the penalty is a fine of \$250 per day as per Sec. 4(a) of the *Business License Bylaw*.

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Notwithstanding any orders that may be given to you separately by the Fire Inspector, you are hereby directed to take the following action:

1. Hire a qualified electrical contractor to conduct an electrical safety survey and load calculation, and correct any and all deficiencies found by April 30, 2014.

*\*\*Electrical permits and follow-up inspections will be required for this work. Failure to comply as directed may result in the removal of electrical service.*

2. Make application for the building, plumbing, and/or electrical permit(s) required to return this property to a permitted use under the R-2 zoning by May 30, 2014.
3. Complete all the work required to return the property to a permitted use, pass all follow-up inspections, and obtain a valid occupancy permit by July 31, 2014.



**FAILURE TO COMPLY WILL RESULT IN THE ISSUANCE OF FINES, THE PLACING OF A NOTICE ON THE LAND TITLE, AND/OR FURTHER LEGAL ACTION.**

If you have any questions regarding the direction you have been given, and/or require additional information, please do not hesitate to contact me directly at 250.361.0578 or by email at [adolan@victoria.ca](mailto:adolan@victoria.ca)

Regards,

A handwritten signature in black ink, appearing to read 'Andrew Dolan', with a long horizontal line extending to the right.

Andrew Dolan  
Senior Bylaw Officer  
Bylaw & Licensing Services  
City of Victoria

Cc: Reed Cassidy, Building Inspector  
Philip Corby, Electrical Inspector  
Andy Wilson, Plumbing Inspector  
Chris Kelly, Fire Prevention Officer  
Kim Ferris, Business License Inspector  
Thom Pebernat, Zoning Administrator  
Debra Cleland, Investigative Officer / EAW  
Bylaw File #40641



March 18, 2014

# BUILDING INSPECTION

Owner: Osborne, Gordon D  
121 Menzies St  
Victoria, BC  
V8V 2G4

## REPORT

### Re: RESPOND Safety Inspection

On March 18, 2014, an inspection was done at 121 Menzies St. There were three buildings on site, which appeared to be a 4 storey multi-unit light-housekeeping building (basement, main floor, second floor, third floor), a detached residential building at the rear of the property, and a storage building along the North side of the property. The following items were discovered by a building inspector and require follow-up as described.

### Principal Building – Residential Occupancy

- The unfinished basement has been finished, creating four additional residential suites.
- The rear deck and stairs to the main floor have been altered and had their direction changed.
- The existing legal use of the building is for seven light-housekeeping units. The building has been altered to contain two light-housekeeping units and ten private dwelling units.
- All kitchens are required to have a ventilation system that exhaust to the exterior.
- The electrical room in the basement has been relocated. Fire separation Code conformance was not determinable at surface inspection.
- The laundry room in the basement has been relocated.
- The fire alarm panel was relocated into the electrical room in the basement.
- The main floor South-East unit has had a bedroom added and the once common bathroom relocated and altered.
- The main floor South West deck has been enclosed and the space, combined with the storage room, has been converted to a dwelling unit.
- The main floor common bathroom for the two light-housekeeping units has been reduced in size and altered.
- The main floor North-West unit's bathroom has been re-organized and made exclusive to this unit.
- The second floor North-East unit has had a three piece bathroom installed.
- The second floor South-West unit has had a three piece bathroom installed.
- The two second floor Eastern units have had lofts installed, created out of former attic space.
- Some units have had sleeping lofts added within the existing floor space and below the existing ceiling. Ceiling heights through-out these units have been compromised.
- New bathroom exhaust systems did not visibly vent to exterior.
- In the new habitable spaces, Building Code requirements for environmental separation were not visible or determinable.
- There are no signs of Code complaint fire separations, firestop assemblies, or sound separations.
- The alterations of the room layouts and the addition of the new units have altered the effectiveness of the fire-suppression sprinkler system.

The **compliance** options for the above noted items for the principal building are as follows:

1. Obtain a Building Permit to convert the building back into its last legal as a seven unit light-housekeeping building with an unfinished basement.
2. Remove all residential tenants from the basement and main floor South-West units, and obtain a Development Permit and Building Permit to convert this building into a ten dwelling unit and two light-housekeeping unit building that conforms with the 2012 BC Building Code. Keep in mind that all existing un-permitted work will be considered new work that must conform to the 2012 BC Building Code, and all relevant 2012 BC Building Code requirements must be implemented to this building.
3. Propose another solution to the City of Victoria that conforms to the BC Building Code and all local regulations.

#### **Accessory Building – Residential Occupancy**

- A detached residential building has been constructed at the rear of the property. This building contains a three piece bathroom, kitchen, living area, and lofted bedroom.
- Building Code requirements for spatial separation and construction requirements do not appear to be adhered to.
- A gas-fired, thermal buoyancy chimney'd hot water tank designed for interior installation has been installed to the exterior of this building.

The **compliance** options for the above noted items for the accessory residential building are as follows:

1. Obtain a Demolition Permit to remove this building.
2. Remove all residential tenants from this building, and obtain a Development Permit and Building Permit to legalize the construction of this building. Keep in mind that the building is un-permitted so the entire building from the ground up will be considered new work that must conform to the 2012 BC Building Code, and all relevant 2012 BC Building Code requirements must be implemented to this building.
3. Propose another solution to the City of Victoria that conforms to the BC Building Code and all local regulations.

#### **Accessory Building – Storage Occupancy**

- A storage building has been constructed along the North property line of this property.
- Building Code requirements for spatial separation and construction requirements do not appear to be adhered to.

The **compliance** options for the above noted items for the accessory residential building are as follows:

1. Obtain a Demolition Permit to remove this building.
2. Obtain a Development Permit (if required) and Building Permit to legalize the construction of this building. Keep in mind that the building is un-permitted so the entire building from the ground up will be considered new work that must conform to the 2012 BC Building Code, and all relevant 2012 BC Building Code requirements must be implemented to this building.
3. Propose another solution to the City of Victoria that conforms with the BC Building Code and all local regulations.





**Legend**

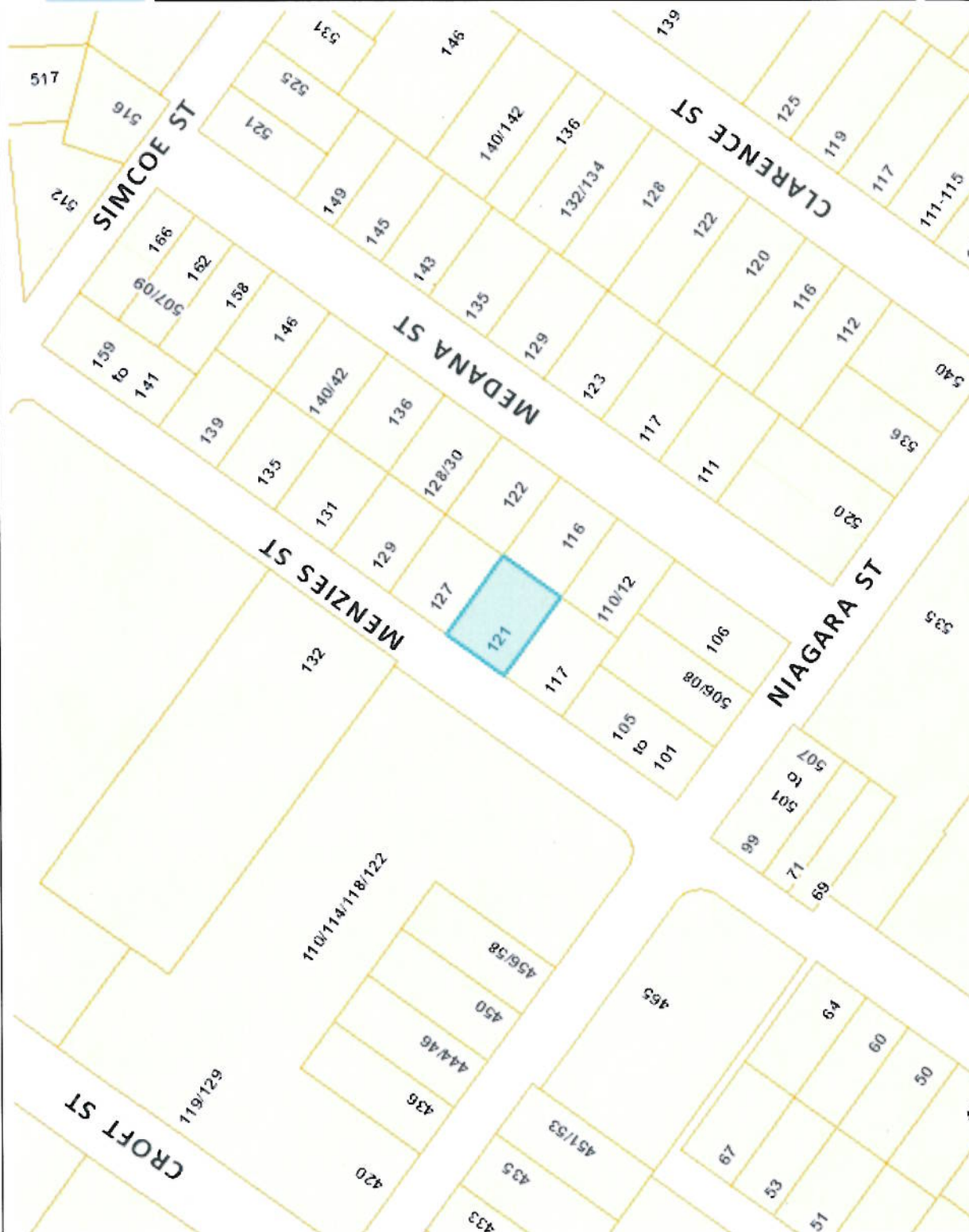
 Victoria Parcels

# Schedule B

1: 1,492



**Notes**



75.8 Meters

37.91

0

75.8



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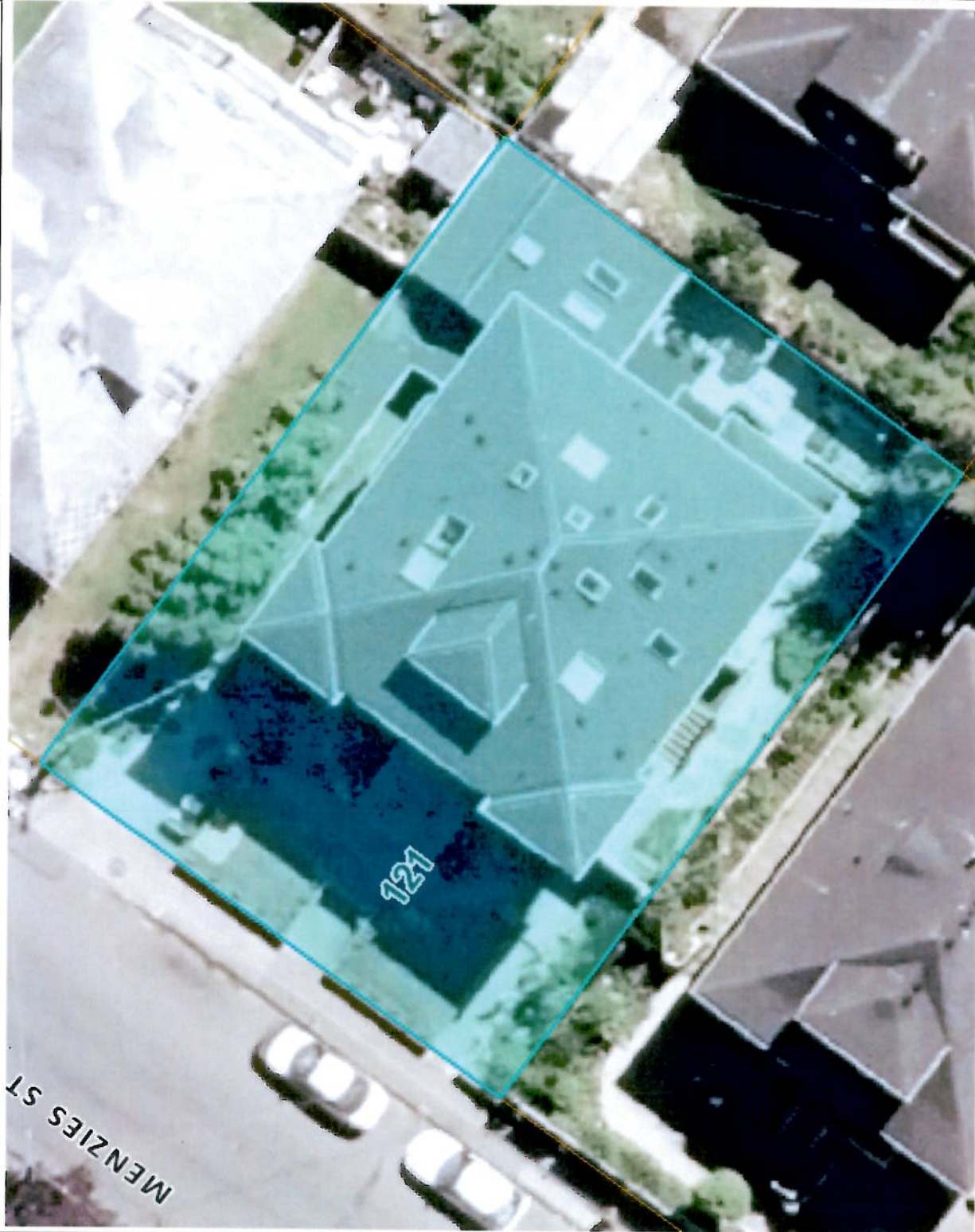
**Legend**  
 Victoria Parcels

# Schedule C

1: 187



**Notes**



9.5 0 4.74 9.5 Meters

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## Schedule D

