



## Planning and Land Use Committee Report

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**Date:** May 1, 2014      **From:** Helen Cain, Senior Planner  
**Subject:** **Development Permit with Variance #000332 for 1440 Dallas Road**  
Application to relax the R1-S2 Zone (Restricted Small Lot Two Storey District) to permit a rooftop deck

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### Executive Summary

The purpose of this report is to present Council with information, analysis and recommendations regarding a Development Permit with Variance Application for the property at 1440 Dallas Road. The applicant proposes the addition of a rooftop deck to a small lot house to enable private views of the Dallas Road oceanfront. This proposal requires a relaxation of the R1-S2 Zone (Restricted Two Storey Small Lot House District) standards which do not permit a roof deck.

The following points were considered in assessing this application:

- The proposed deck is sited within the front portion of the roof with access and egress from both an elevator, for wheelchair accessibility, and rear stairs.
- No portion of the deck would be located at the back of the roof, where it would be possible to look over and view the rear yards of neighbouring houses.

In accordance with the City's *Land Use Procedures Bylaw*, this Development Permit Application with Variance requires notification, sign posting and a Hearing. Staff recommend that the Committee support this application because the proposed rooftop deck would have little or no impact on the privacy of adjacent neighbours.

### Recommendations

That Development Permit #000322 for 1440 Dallas Road proceed to a Hearing, in accordance with:

1. Plans date stamped December 24, 2013, for Development Permit #000332
2. Development meeting all *Zoning Regulation Bylaw* requirements, except Part 1.23, R1-S2 Zone (Restricted Small Lot Two Storey District):
  - prohibition on a rooftop deck relaxed to allow a rooftop deck.
3. Final plans to be in accordance with the plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development.

Respectfully submitted,



Helen Cain  
Senior Planner  
Development Services



  
Deb Day, Director  
Sustainable Planning and Community  
Development Department

Report accepted and recommended by the City Manager:

  
Jason Johnson

Date: May 5, 2014

HC:aw

S:\TEMPEST\_ATTACHMENTS\PROSPERO\PL\DP\DP000332\PLUSC PLANNING REPORT TEMPLATE DP & DVP3.DOC

## 1.0 Purpose

The purpose of this report is to present Council with information, analysis and recommendations regarding a Development Permit with Variance Application for the property located at 1440 Dallas Road.

## 2.0 Background

### 2.1 Description of Proposal

The applicant is proposing the addition of a roof deck to a small lot house to enable private views of the Dallas Road oceanfront. This proposal requires a relaxation of the R1-S2 Zone (Restricted Two Storey Small Lot House District) standards which do not permit a roof deck.

The proposed deck is sited within the front portion of the roof with access and egress from both an elevator, for wheelchair accessibility, and rear stairs leading up to the roof. It should be noted that no portion of the deck would be located at the back of the roof, where it would be possible to look over and view the rear yards of neighbouring houses.

### 2.2 Existing Site Development and Development Potential

The subject properties are located in the R-J Zone, Low Density Attached Dwelling District. This Zone permits all uses in the R1-S2 Zone (Restricted Small Lot Two Storey District), subject to the regulations in that Zone. The data table (below) compares the proposal with the standard R1-S2 Zone (Restricted Small Lot Two Storey District). This proposal is less stringent than the standard zone in the criterion that is identified with an asterisk (\*) below.

Zoning Criteria	Proposal	Zone Standard R1-S2
Site area (m <sup>2</sup> ) – minimum	295.33	260.00
Total floor area (m <sup>2</sup> ) – maximum	160.68	190.00
Density (Floor Space Ratio) – maximum	0.54:1	0.6:1
Site coverage (%) – maximum	35.17	40.00
Setbacks (m) – minimum		
Front (south)	6.00	6.00
Rear (north)	6.00	6.00
Side (east)	1.50	1.50
Side (west)	1.50	1.50
Height (m) – maximum	7.32 (building)	7.50
Storeys – maximum	2	2
Roof deck	Yes*	Not permitted
Parking – minimum	2	1

### 2.4 Land Use Context

The property is located in an area where the place character is low-density single family dwellings and duplexes with pockets of relatively higher-density multi-unit residential uses.



There are no commercial uses in the immediate vicinity. New infill in the form of low-density and ground-oriented housing is well suited to the streetscape that includes 1440 Dallas Road and the immediate area of the south Fairfield neighbourhood.

## **2.5 Legal Description**

- Parcel B (DD 131128I) of Lots 13 and 28, Block F, Fairfield Farm Estate, Victoria District, Plan 340
- Lot 27, Block F, Fairfield Farm Estate, Victoria City, Plan 340.

## **2.6 Relevant History**

Council approved an earlier Development Permit for four small-lot houses for the properties at 1440 and 1450 Dallas Road on March 14, 2013. At that time, the proposal did not include any variances. Subsequently, the owner of one of these small lot houses is seeking a relaxation of the R1-S2 Zone standard to permit a roof deck.

## **2.7 Community Consultation**

In compliance with the Community Association Land Use Committee Procedures for Processing Variances, this Development Permit Application was referred to the Fairfield Gonzales Community Association on December 2, 2013, for a 30-day comment period. No comments were received at the time of writing this report.

## **3.0 Issues**

The main issue related to this application is the impact of the proposed roof deck on the privacy of adjacent neighbours.

## **4.0 Analysis**

### **4.1 Privacy Impacts**

Potential impact of a rooftop deck on the privacy of immediate neighbours is an important issue. The applicant has worked constructively with staff to reduce the footprint of the proposed deck so that the viewing area is restricted to the front of the roof, while a walkway from the elevator shaft would be wide enough to accommodate a wheelchair. Given that views from the rooftop to neighbouring yards would only be possible from the walkway portion of the deck, the privacy of adjacent neighbours would be reasonably protected.

## **5.0 Resource Impacts**

There are no resource impacts anticipated.

## **6.0 Conclusions**

Staff recommend that the Committee support this application because the proposed rooftop deck would have little or no impact on the privacy of adjacent neighbours.

## **7.0 Recommendations**

### **7.1 Staff Recommendations**

That Development Permit #000322 for 1440 Dallas Road proceed to a Hearing, in accordance with:

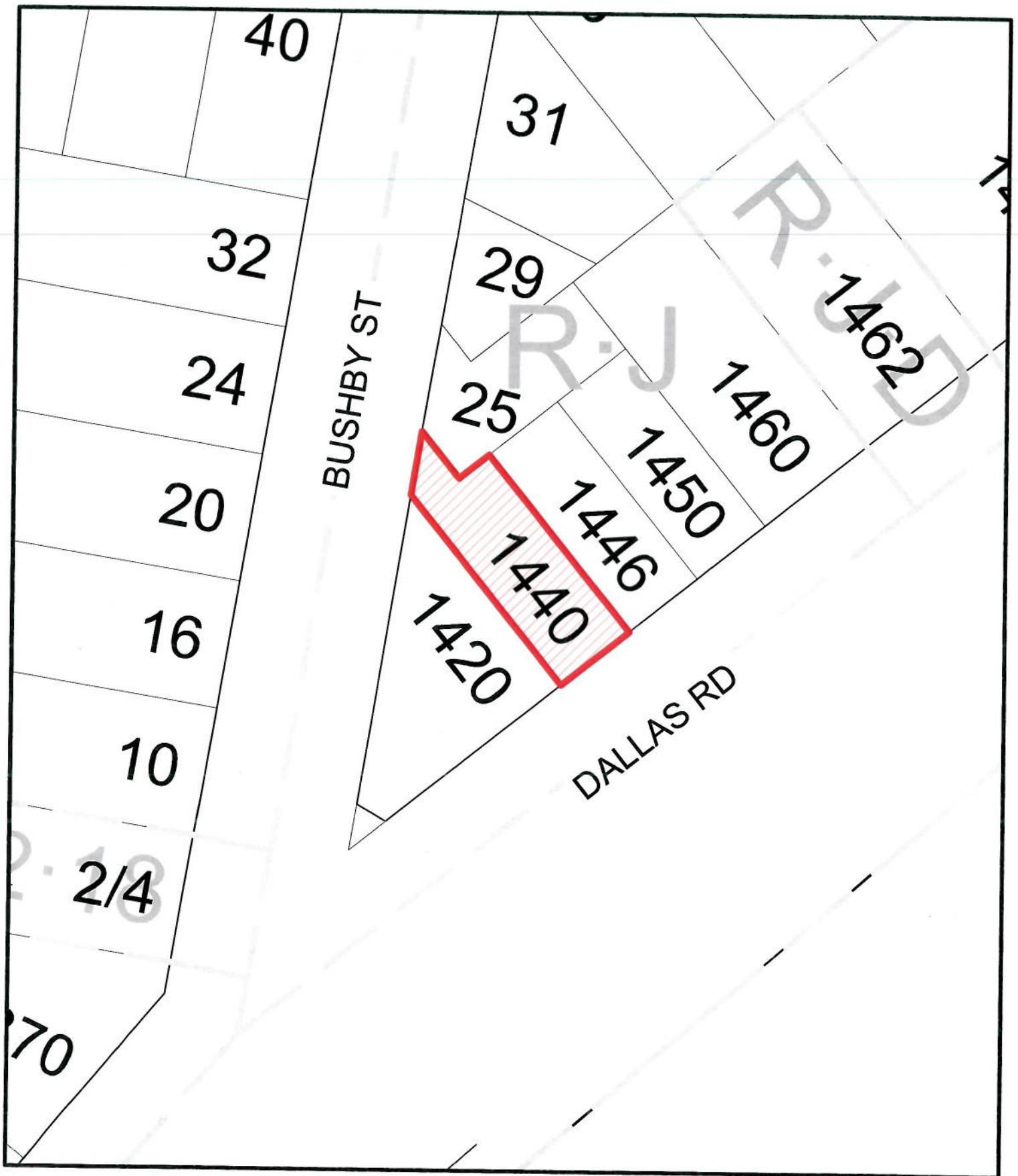
1. Plans date stamped December 24, 2013, for Development Permit #000332.
2. Development meeting all *Zoning Regulation Bylaw* requirements except Part 1.23, R1-S2 Zone (Restricted Small Lot Two Storey District):
  - prohibition on a rooftop deck relaxed to allow a rooftop deck.
3. Final plans to be in accordance with the plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development.

### **7.2 Alternate Recommendation**

That Council decline Development Permit Application #000332.

## **8.0 List of Attachments**

- Zoning map
- Aerial map
- Letters from applicant stamped December 24, 2013, November 29, 2013, and October 30, 2013
- Plans stamped December 24, 2013, for Development Permit #000322.



1440 Dallas Road - Lot 4  
Development Permit #000332



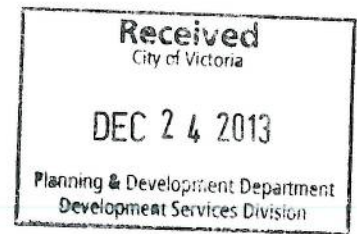




1440 Dallas Road - Lot 4  
Development Permit #000332







December 23, 2013

City of Victoria, Planning and Developing Department  
Development Services Division  
#1 Centennial Square  
Victoria, B.C. V8W 1P6

Re: Lot 4, 1450 Dallas Road, Victoria B.C. - Development Permit with Variance

Dear Mayor and Council,

Thank you for considering our application for a rooftop deck at 4-1440 Dallas Road, for Development Permit # 000332. Our application has been altered to allow for stairwell access to the rooftop (as well as elevator access), per recommendations from the Application Review Summary dated November 27 2013. We are applying for only one variance, for the existence of the rooftop deck.

Please see our previous letter from November 19, 2013 for the application rationale.

Regarding "Conditions to be met prior to Planning & Land Use Committee of the Whole", from Development Services Division, please see below in blue:

- Provision of additional analysis of the impact of roof deck on adjacent residents.  
[Roof deck is now shown on site plan, as requested](#)
- Plan revisions to fully show the roof deck in context of the neighbouring houses.  
[Roof deck is now shown on site plan, as requested](#)
- Plan revisions that reduce the northerly extent of roof deck to meet the minimum requirements of universal access, only.  
[Northerly walkway reduced to 5 feet wide, as requested](#)

Regarding Permit and Inspection Division comments, please see below in blue:

- Roof top occupancies require a code compliant access to exit. The elevator/cab lift is not considered to be an access to exit as it cannot be used in cases of fire emergencies.  
[Primary stair access is now incorporated to the roof deck](#)
- The services of a structural engineer will be required at the building permit stage for glass guards and construction of deck.  
[A structural engineer will certify the drawings and specifications at the Building Permit stage](#)
- Will need to confirm correct venting of attic space under proposed deck.  
[To be confirmed at the Building Permit stage](#)

We appreciate your time in reviewing our revised application.

Sincerely,

Rus Collins  
Zebra Design & Interiors Group, Inc.

Zebra Design & Interiors Group Inc. • 1161 Newport Avenue, Victoria BC V8S 5E6  
Phone: (250) 360-2144 Fax: (250) 360-2115  
Email: [info@zebragroup.ca](mailto:info@zebragroup.ca) Website: [www.zebragroup.ca](http://www.zebragroup.ca)



November 19, 2013

City of Victoria, Planning and Developing Department  
Development Services Division  
#1 Centennial Square  
Victoria, B.C. V8W 1P6

Re: Lot 4, 1450 Dallas Road, Victoria B.C. - Development Permit with Variances

On behalf of our client Mr. Schenck we would like to apply for a development permit with variances, in order to allow the construction and maintenance of a rooftop deck at the above mentioned property. A development permit has already been issued for this property, but this application is to address the addition of two minor variances to this small lot.

The first variance request is for the existence of the deck itself. The second is a building height variance of 0.88 meters, because the roof height would need to be calculated to the top of the glass railing of the enclosure. Allowable building height is 7.5 meters; height to the top of the glass railing would be 8.38 meters.

Mr. Schenck has lived at this location on Dallas Road for many years and is now having a new house built for him. He has always desired to build a new home with a roof deck but as we were designing his home and preparing the development permit for the property, we had to inform him that roof decks were no longer permitted.

After making some enquiries with City staff, we found out that a variance could be applied for, and Mr. Schenck has respectfully asked that we seek such a variance on his behalf. Mr. Schenck would also like to have access to the roof for the purpose of cleaning his skylights and in future, he intends to install solar heating panels which would also be easier to maintain with roof access.

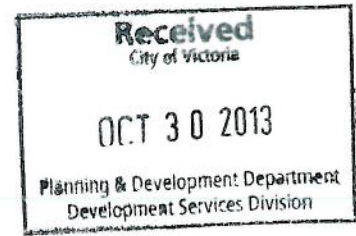
We understand that one of the principal reasons for the current restriction on roof decks is because of concerns regarding privacy for neighbours. In response to this issue, we have designed the deck enclosure to be set back significantly from the edges of the building, in order to protect the privacy of the neighbours. In addition, the enclosure has been designed with obscured, frosted glass for the majority of the railing except a portion on the side facing the ocean. Mr. Schenck's location is somewhat unique in that, as the property faces the ocean, he does not have neighbours anywhere in the front 180 degrees of his property. Sight lines and privacy should not be a concern in that forward direction.

We hope that you will weigh the special conditions of this property when considering your response to this application. Thank you for your time and we look forward to your comments.

Sincerely,

Rus Collins  
Zebra Design & Interiors Group, Inc.





October 22, 2013

City of Victoria, Planning and Developing Department  
Development Services Division  
#1 Centennial Square  
Victoria, B.C. V8W 1P6

Re: Lot 4, 1450 Dallas Road Lot, Victoria B.C. – request for amendment to Development Permit

On behalf of our client Mr. Schenck we would like to apply for an amendment to the development permit, in order to allow the construction and maintenance of a rooftop deck. Mr. Schenck has lived at this location on Dallas Road for many years and is now having a new house built for him. He has always desired to build a new home with a roof deck but as we were designing his home and preparing the development permit for the property, we had to inform him that roof decks were no longer permitted.

After making some enquiries with City staff, we found out that a variance could be applied for, and Mr. Schenck has respectfully asked that we seek such a variance on his behalf. Mr. Schenck would also like to have access to the roof for the purpose of cleaning his skylights and in future, he intends to install solar heating panels which would also be easier to maintain with roof access.

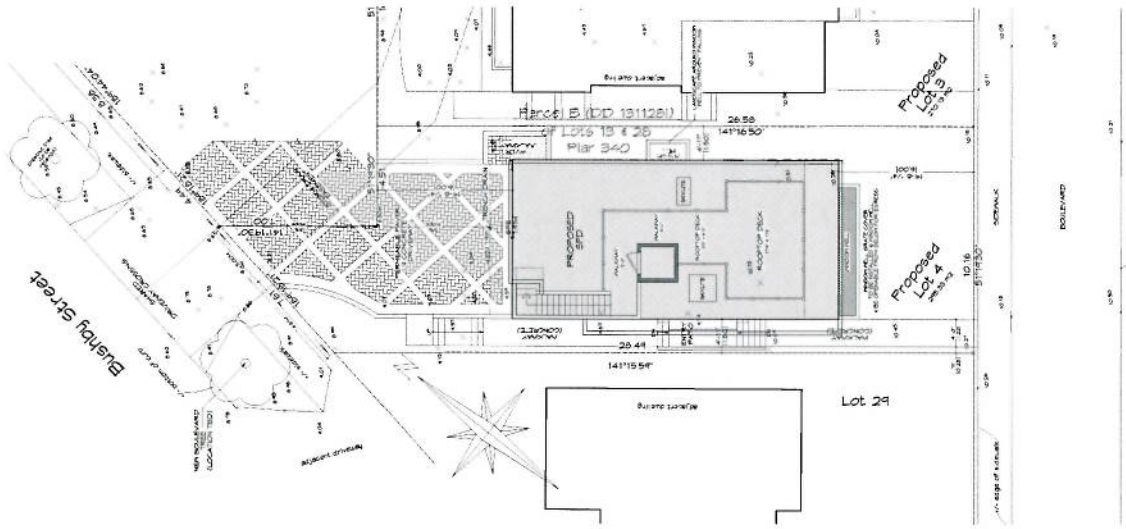
We understand that one of the principal reasons for the current restriction on roof decks is because of concerns regarding privacy for neighbours. In response to this issue, we have designed the deck enclosure to be set back significantly from the edges of the building, in order to protect the privacy of the neighbours. In addition, the enclosure has been designed with obscured, frosted glass for the majority of the railing except a portion on the side facing the ocean. Mr. Schenck's location is somewhat unique in that, as the property faces the ocean, he does not have neighbours anywhere in the front 180 degrees of his property. Sight lines and privacy should not be a concern in that forward direction.

We hope that you will weigh the special conditions of this property when considering your response to this application. Thank you for your time and we look forward to your comments.

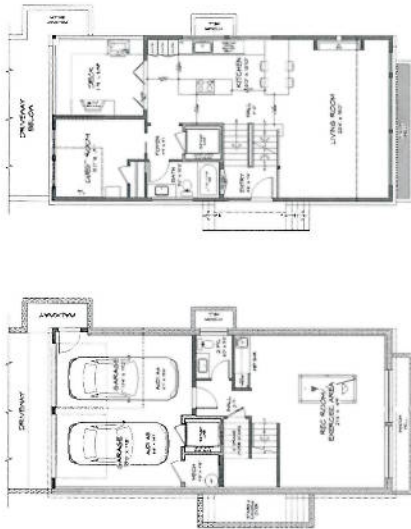
Sincerely,

A handwritten signature in black ink, appearing to read "Rus Collins".

Rus Collins



Site Plan  
Scale: 1:100



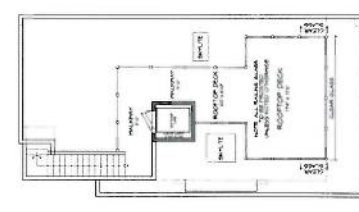
Lower Floor Plan  
Scale: 1/8" = 1'-0"



Upper Floor Plan  
Scale: 1/8" = 1'-0"



Main Floor Plan  
Scale: 1/8" = 1'-0"



Roof Plan  
Scale: 1/8" = 1'-0"

SITE DATA - Proposed Lot 4 @ 1440-1450 Dallas Road			
LEGAL DESCRIPTION: Proposed Lot 4, Lot 5 & 6, 27.1 Acres B (CD 131126) of Lots 13 and 26 Block B (CD 131126) of the 1440/1450 Dallas Road, Victoria City, Plan 340			
ZONING: R1-52 (permitted use under R1-2 zone)			
REQUIRED	PROPOSED - LOT 4	PROPOSED - LOT 5	PROPOSED - LOT 6
LOT AREA	240.00 M <sup>2</sup>	205.33 M <sup>2</sup> (8713.91 FT <sup>2</sup> )	10.16 M (33.53)
LOT WIDTH	10.00 M	10.16 M (33.53)	10.16 M (33.53)
SETBACKS			
FRONT	6.00 M (19.67)	6.00 M (19.67)	6.00 M (19.67)
REAR	6.00 M (19.67)	6.00 M (19.67)	6.00 M (19.67)
SIDE	15.0 M (49.2)	15.0 M (49.2)	15.0 M (49.2)
SIZE	15.0 M	15.0 M (49.2)	15.0 M (49.2)
AVG. GRADE	4.37 M (14.34)	4.37 M (14.34)	4.37 M (14.34)
STOREYS	2 STOREYS	2 STOREYS	2 STOREYS
BUILDING HEIGHT	15.0 M	15.0 M (49.2)	15.0 M (49.2)
FLOOR AREA			
UPPER FLOOR	80.26 M <sup>2</sup> (864.04 FT <sup>2</sup> )	80.26 M <sup>2</sup> (864.04 FT <sup>2</sup> )	80.26 M <sup>2</sup> (864.04 FT <sup>2</sup> )
MAIN FLOOR	55.86 M <sup>2</sup> (601.91 FT <sup>2</sup> )	55.86 M <sup>2</sup> (601.91 FT <sup>2</sup> )	55.86 M <sup>2</sup> (601.91 FT <sup>2</sup> )
BASMENT	28.06 M <sup>2</sup> (302.63 FT <sup>2</sup> )	28.06 M <sup>2</sup> (302.63 FT <sup>2</sup> )	28.06 M <sup>2</sup> (302.63 FT <sup>2</sup> )
GARAGE ALLOWANCE	18.60 M <sup>2</sup> MAX	18.60 M <sup>2</sup> (200.21 FT <sup>2</sup> )	18.60 M <sup>2</sup> (200.21 FT <sup>2</sup> )
TOTAL FLOOR AREA	164.18 M <sup>2</sup>	164.18 M <sup>2</sup> (1768.10 FT <sup>2</sup> )	164.18 M <sup>2</sup> (1768.10 FT <sup>2</sup> )
FLOOR AREA RATIO	0.60	0.60	0.60
SITE COVERAGE	40.0 %	40.0 %	40.0 %
PARKING	1 SPACE	2 SPACES	2 SPACES
SUMMARY OF VARIANCES			
ROOFTOP DECK			
NOT ALLOWED FOR ZONING BY-LAW			
VARIANCE REQUESTED TO ALLOW ROOFTOP DECK			

RE-ISSUED FOR  
DEVELOPMENT  
PERMIT  
BY VARIANCES  
DEC. 23, 2013

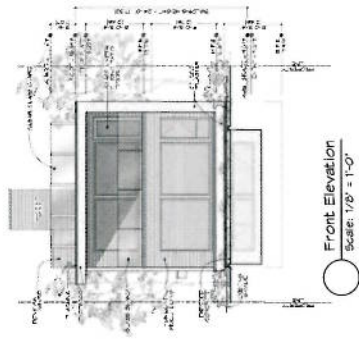


1161 NEWPORT AVE  
VICTORIA, B.C. V8S 5E6  
Phone: (250) 360-2144  
Fax: (250) 360-2115  
Drawn By: K. BELFAY  
Date: NOV. 20, 2013  
Scale: AS NOTED  
PROJECT:  
ROOFTOP DECK  
LOT 4 - 1440/1450  
DALLAS RD

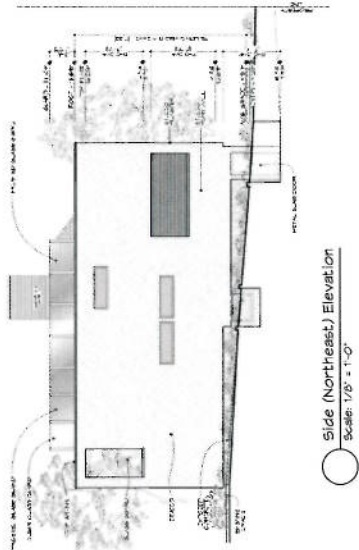
TITLE  
SITE PLAN, SITE  
DATA & FLOOR  
PLANS

Revision: Sheet:  
A - 08/13/13 DP  
0.1  
PROJECT NO. 2224

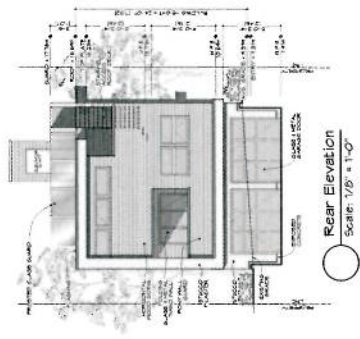




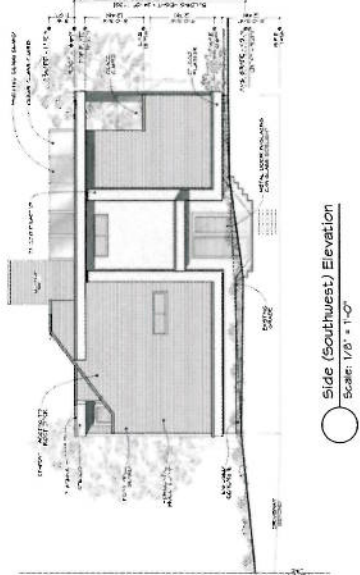
Front Elevation  
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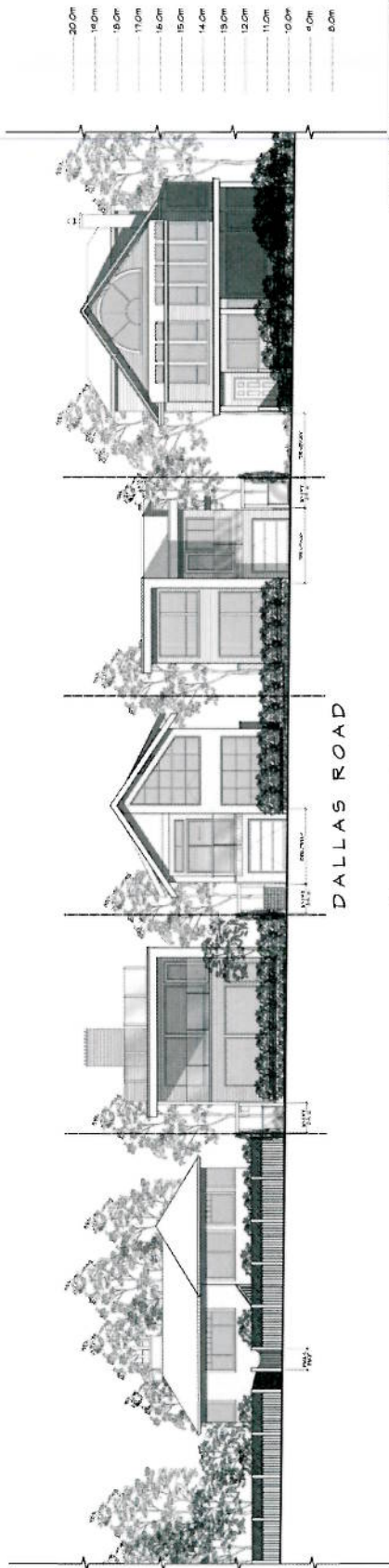
Side (Northeast) Elevation  
Scale: 1/8" = 1'-0"



Rear Elevation  
Scale: 1/8" = 1'-0"



Side (Southwest) Elevation  
Scale: 1/8" = 1'-0"



Dallas Road Streetscape  
Scale: 1/8" = 1'-0"

RE-ISSUED FOR  
DEVELOPMENT  
PERMIT  
W/ VARIANCES  
DEC. 23, 2015

ZEBRADESIGN



1161 NEWPORT AVE  
VICTORIA, B.C. V8S 5E6  
PHONE: 250.683.4444  
FAX: 250.683.2715

Drawn By: K. BELLEVY

Date: NOV. 20, 2015

Scale: AS NOTED

Project:

ROOFTOP DECK

LOT 4 - 1440/1450

DALLAS RD

TITLE

ELEVATIONS

1 STREETSCAPE

REV. NO.	DESCRIPTION	DATE	BY
A	REVISED ELEVATIONS AND STREETSCAPE PERMIT REQUIRED TO BUILD ON BOARD	DEC. 23-15	

Revision:

DP

0.2

Proj No. 2224

August 2013

City of Victoria  
Building and Development  
1 Centennial Square  
Victoria, B.C. V8W 1P6



Re: 1450 Dallas Road, Lot 4 - Application for Variance

After reviewing the plans and elevations for the proposed roof deck for Lot 4- 1450 Dallas Road, we the undersigned have no objections to the proposed variance.

SIGNATURE/ PRINT NAME	ADDRESS	DATE
Joyce MILLER,		
	20 Bushby St. Victoria	3 Oct 2013
Olin Williams	1420 Dallas Rd.	6, Oct. 2013.
Blaine Fisher	16 Bushby St	OCT 16/13
Blaine Fisher	VICTORIA	
Peggy Cady	40 Bushby St	Oct 6, 13
John Park	victoria V8S1B2	
W. K. Lavin	32 BUSHBY ST.	Oct 6, 13
James Penman	VICTORIA	
	V8S 1B2.	
James G. Nicoll	103 Bushby St	Oct 12
Ann F. Nicoll	VICTORIA	
	V8S-1A2	



C

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After reviewing the plans and elevations for the proposed roof deck for Lot 4- 1450 Dallas Road, we the undersigned have no objections to the proposed variance.

[illegible]

----- Original Message -----

From: DOUGLAS M SAY

Sent: Friday, January 03, 2014 09:28 AM

To: Development Services email inquiries; Community Planning email inquiries; Deborah Day

Subject: Development at 1440 and 1450 Dallas Road

24 Bushby St  
Victoria BC  
Canada V8S 1B2

Planning Dept  
C/O City Hall  
1 Centennial Square  
Victoria, BC V8W 1P6

Concerning development at 1440 and 1450 Dallas Road

The development was the removal of 2 homes and the building of 4 small lot single family homes. The buyer of the west-most lot (closest to the intersection of Bushby St and Dallas Road) has approached us to support the placing of a deck on the roof of the new home as well as an elevator up to that deck.

We do not support this proposal and have told him so.

Firstly I understand decks are not allowed on roofs currently.

Secondly, our house is directly behind the house currently being built. If built, the deck would be fully visible from our second floor and vice versa. This would lessen both our privacies to an unacceptable degree.

The elevator would add approximately 10 feet of height above the roof of the house (for the elevator and associated machinery). This would be a totally unnatural construction on top of the house, increase the overall height of the house unacceptably and impact our view unnecessarily as well as damage the aesthetics of the neighborhood.

I am happy to discuss this further should it be required.

I will also send a copy of this via regular mail.

Sincerely,

Doug Say