

# M e m o



**Date:** March 7, 2014  
**To:** Robert Woodland, Director  
**From:** Andrew Dolan, Senior Bylaw Officer  
**Department:** Legislative and Regulatory Services  
**Regarding:** 737 Princess Ave. / Bylaw File #33487

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LEGISLATIVE SERVICES

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At its meeting of January 9, 2014, the Planning and Land Use Committee made a motion to postpone consideration of the recommendation to file a Notice on Title for 737 Princess Street for 60 days. The purpose of this postponement was to give the property owner(s) an opportunity to make application for the necessary building, plumbing and/or electrical permits, and complete the work and inspection process required, to bring the property into compliance.

The Planning and Land Use Committee will further consider the recommendation to file a Notice on Title at the Committee meeting on Thursday, March 20, 2014.

To date, the City has not received any applications for permits; however, the property owner(s) have reportedly engaged Victoria Design Group to identify the highest and best use of the property and develop design plans for submission to the City's Planning Department. Unfortunately, due to work load and other commitments additional time will be required to prepare the owner's submission as per the letter from Victoria Design Group dated February 28, 2014 (see attached).



# VICTORIA DESIGN G R O U P

103 – 891 Attree Ave. Phone. 250.382.7374  
Victoria, B.C. V9B 0A6 Fax. 250.382.7364  
Website: [www.victoriadesigngroup.ca](http://www.victoriadesigngroup.ca)  
Email: [info@victoriadesigngroup.ca](mailto:info@victoriadesigngroup.ca)

February 28, 2014

Attention: Mr. Andrew Dolan  
Bylaw Department  
City of Victoria

Dear Mr. Dolan,

**Re: 737 Princess Avenue - Architectural drawings.**

We are Kaisaiah Investment Corporation's designer for the two projects that your department has care of, namely 1601 Jubilee Avenue and 737 Princess Avenue.

We have been engaged and have been working on 737 Princess Avenue for a number of weeks now, and wanted to update you on our progress.

Our client had given us a deadline of March 9th 2014 based on a two month agreement he had made in Council on January 9th, 2014.

The original decision reached by our clients was to close off the areas that were non-conforming, and show the existing floor plans, and design new plans showing our intention to close off the non-conforming areas including the two sets of stairs from any future use.

In the process of working on the project, and investigating the roof top suite, we came to the realization that this property at 737 Princess Avenue, because of its large size (over 2600SF), and the fact that it was constructed in 1910 (pre-1930), this allows us to develop the property legally to take advantage of all three floors.

That said, we found that 737 Princess Avenue qualifies under this M1 zoning to apply for a work-live use, and lift the house accordingly to accommodate this. As well, because of the heritage vintage of the house, we are able to legally add the roof top suite as an additional legal self-contained unit under the zoning.

Unfortunately, we had not focused on this in our original mandate with our clients, and only just found this out in the last week.

For this reason, we have an agreement from our clients, that the highest and best use of the property is the best long term plan moving forward with this development permit.

Based on this new mandate, we have had to retool and have already started the process to engage consultants to prepare all the site plans, surveys and onsite building measurements. We anticipate we will have these reports back in the next 5 to 7 business days.

We will then be able to develop the new design plans for immediate submission to the City of Victoria planning department.

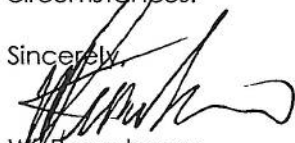
The good news is our client has the ability to restore this very heritage property to its highest and best use, rather than just shutting down sections of the house for the foreseeable future, which is not in the best interests of the immediate area or the city of Victoria community.

However due to this change of direction, this is far more comprehensive, and we will require an additional 20+/- business days) to be able to prepare these new architectural designs and to submit them to the City of Victoria Planning department.

In consideration, we will try our best to give this urgent priority, even while we are already overwhelmed with other contracts for many other clients.

We thank you in advance for your understanding and assistance in relation to these new circumstances.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Peereboom', written over the word 'Sincerely,'.

W. Peereboom  
Victoria Design



**Legislative and  
Regulatory  
Services  
Department**

**Legislative Services**

#1 Centennial Square

Victoria

British Columbia

V8W 1P6

Tel (250) 361-0571

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February 27, 2014

Mr. John Asfar  
158 Barkley Terrace  
Victoria, BC  
V8S 2J6

Dear Mr. Asfar,

**Re: Illegal Use and Work without Permit - 737 Princess Avenue**

At its meeting of January 9, 2014, the Planning and Land Use Standing Committee made the following motion after the hearing closed:

That Committee postpone consideration of the recommendation to file a Notice on Title for 737 Princess Street for 60 days.

The Planning and Land Use Committee will further consider the recommendation to file a Notice on Title for 737 Princess Street at the Committee meeting on **Thursday, March 20, 2014, at 10:30 a.m.**, in the Council Chambers, at Victoria City Hall, #1 Centennial Square (corner of Douglas and Pandora).

Please be advised that the Planning and Land Use Committee is considering a motion to instruct the Corporate Administrator to file a Notice in the Land Title Office regarding Illegal Use, Illegal Suite and Work Without Permit for 737 Princess Avenue.

Further information respecting this matter may be obtained from the offices of the City of Victoria, Legislative & Regulatory Services, #1 Centennial Square, Victoria, BC between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

The agenda for this meeting will be produced on the Monday prior to the meeting and available from this office. Please advise Janice Appleby, Committee Secretary, at 250.361.0598, if you have any written submission you wish to provide to the Committee, by Thursday, March 14, 2014.

Yours truly,

A handwritten signature in black ink, appearing to read "R. Woodland".

Robert G. Woodland  
Corporate Administrator

## 6. PROPERTY MAINTENANCE HEARINGS

### 6.1 Illegal Use and Work Without Permit – 737 Princess Avenue

Committee received a report dated November 12, 2013, from Legislative & Regulatory Services in respect to work that has been done without permit to convert the building from its approved use as a single family dwelling to three separate self-contained dwelling units. The property owner was directed to vacate the unpermitted residential occupancy of both the top floor and basement suites, and to make application for the building, plumbing, and/or electrical permits required to return the property to a permitted use.

Recommendation: The Manager, Bylaw & Licensing (Building Inspector) recommends that the Planning and Land Use Standing Committee direct the Corporate Administrator to file a Notice on title in the Land Title Office in relation to the property located at 737 Princess Avenue, legally described as PID 000-947-334, LOT D, SECTION 3, VICTORIA DISTRICT, PLAN 3958, 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.

*The Chair opened the hearing at 10:30 a.m.*

*The Chair explained the recommendation that was before Committee.*

*The Chair asked if the property owner was present and if they had received notification of this hearing.*

John Asfar (Property Owner Representative): Yes

*The Chair asked the City representative to provide an opening statement and to present evidence.*

A. Dolan (Senior Bylaw Officer): The property at 737 Princess Avenue is located in the Rock Bay neighbourhood in the M-1, Limited Light Industrial District. The approved use of the property is single family dwelling (SFD). The property was inspected by a multi-agency team on July 23, 2013, after concerns were raised regarding the number of occupants residing at the location. Upon inspection it was discovered that the building contained three separate self-contained units: a five bedroom suite in the basement, a five bedroom suite on the main floor and a two bedroom suite in the attic. Due to the low ceiling height in the basement and lack of access to the attic it has been determined that neither area was originally intended to be habitable. The original letter and notice of hearing was sent to the wrong address and such the hearing was postponed until January 9, 2014. Since that time they have heard from Mr. Asfar on several occasions. To date there are no building permits applied for and the property still remains as rental suites.



*The Chair asked if the property owner representative had any questions for Mr. Dolan.*

J. Asfar (Property Owner Representative): He would like to point out that as soon as he found out about the hearing he was quick to take action.

A. Dolan (Senior Bylaw Officer): He has been working with Mr. Asfar on another property to bring into compliance and Mr. Asfar has been very cooperative.

*The Chair asked if Committee members had any questions.*

*The Chair asked the property owner if he wished to explain his version of the events.*

J. Asfar (Property Owner Representative): When the property was purchased in 2004 it had a suite on the top floor. It is a character home from about 1910, and all the wood work is original. The main floor is a character suite that has had minor aesthetic upgrades. The basement appears to be altered within the last 25 years. Some work has been completed to improve the suite such as new bathroom fixtures and replacement of the panelling. Once notice was received about the hearing for this property he immediately hired an architect and provided eviction notice to the tenants. He requested that the hearing be postponed to allow him more time to work at bringing the property into compliance.

*The Chair asked if Mr. Dolan had any questions for the property owner.*

A. Dolan (Senior Bylaw Officer): Clarified that after the last hearing Bylaw & Licensing posted notices on the apartment doors notifying the occupants that occupancy was unapproved.

The enforcement letter that was sent from the Building Inspector on August 15, 2013, provided a detailed plan to bring the property into compliance and should be helpful to Mr. Asfar.

Mr. Dolan stated that not be opposed to a motion to postpone the registration of a Notice on Title. The Notice on Title may prevent Mr. Asfar from obtaining financing to bring the property into compliance.

*The Chair asked if Committee Members had any further comments.*

Councillor Madoff: When the property was purchased did you confirm the legal use?

J. Asfar (Property Owner Representative): At the time four properties were purchased at once and the intent was to demolish the buildings to make a parking lot.

*The Chair asked if any members of the public wished to comment.*

*The Chair asked if staff had any final comments.*

*The Chair closed the hearing at 10:49 a.m.*

**Action:** Councillor Helps moved that Committee postpone consideration of the recommendation to file a Notice on Title for 737 Princess Street for 60 days.

CARRIED UNANIMOUSLY 14/PLUC012

## Planning and Land Use Standing Committee Report

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**Date:** Nov 12, 2013      **From:** Robert Woodland, Director  
**Subject:** Illegal use / work without permit – 737 Princess Ave. / Bylaw File #33487

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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 the building from its approved use as a single family dwelling to its current use as 3 separate self-contained dwelling units. The property owner was directed to vacate the unpermitted residential occupancy of both, the top floor and basement suites, and make application for the building, plumbing, and/or electrical permit(s) required to return the property to a permitted use. The owner has thus far failed to comply and has instead continued to operate monthly room rentals.

### 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 737 Princess Avenue, legally described as **Lot D Section 3 Victoria Plan 3958**, 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



Robert Woodland  
Director  
Legislative & Regulatory Services



## **List of Attachments**

Appendix A – Bylaw enforcement letter to property owner dated August 15, 2013

Appendix B – One (1) exterior photograph of the subject property taken July 24, 2013

## Purpose

The purpose of this report is to advise the Planning and Land Use Standing Committee about the conditions and illegal use of the property at 737 Princess Avenue, 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 the building from its approved use as a single family dwelling to its current use as 3 separate self-contained dwelling units.

## 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 Sec. 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 Sec. 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 Sec. 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 and Analysis

The property at 737 Princess Ave. is located in the Rock Bay neighbourhood in the M-1, Limited Light Industrial District. The approved use of the property per the approved building plans is single family dwelling (SFD). The property was inspected by a multi-agency team on July 23, 2013 after concerns were raised regarding the number of occupants residing at this location. Upon inspection it was discovered that the building contained 3 separate self-contained dwelling units; a 5 bedroom suite in the basement, a 5 bedroom suite on the main floor, and a 2 bedroom suite in the attic. Due to the low ceiling height in the basement and lack of access to the attic it has been determined that neither area was originally intended to be habitable.



The property owner was directed to vacate the unpermitted residential occupancy of both, the top floor and basement suites, and make application for the building, plumbing, and/or electrical permit(s) required to return the property to a permitted use. The owner has thus far failed to comply and continues to operate monthly room rentals, although it appears that he has now removed all online advertising related to this property.

### **Options and 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 the building from its approved use as a single family dwelling to its current use as 3 separate self-contained dwelling units. The notice can be easily removed once the property has been brought into compliance.

### **Official Community Plan Consistency Statement**

The enforcement action recommended in this report is being sought in order to ensure that improvements made on the property and the use of the property are in compliance with the provisions of the *Zoning Regulation Bylaw* and the *Building Bylaw* as appropriate. This in turn helps ensure congruency with the OCP.

### **Financial and Staff Capacity Assessment**

Staff have spent approximately 11 hours working on this file in order to obtain compliance. Filing of a Notice on Title (as recommended) will cost the City \$47.30.

### **Public Engagement and Consultation**

Committee consideration of this matter requires a public hearing at which time the affected property owner may make a presentation directly to the Committee in respect to the recommendation or a related issue. Other members of the public who have a direct interest in this matter may also provide input to the Committee, at the discretion of the Committee.

### **Conclusion**

Given the owner's failure to comply and the continuing unpermitted residential use this Officer has determined that the appropriate course of action at this time is to proceed with filing a notice on title. Doing so will ensure that full disclosure is made to a prospective purchaser and/or lender should this property be listed for sale.

### **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 737 Princess Avenue, legally described as **Lot D Section 3 Victoria Plan 3958**, 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.





August 15, 2013

Legislative and  
Regulatory Services  
Department

Bylaw and Licensing  
Services Division

1 Centennial Square  
Victoria BC V8W 1P6

Mr. John Asfar  
Princess Manor Holdings Ltd.  
#419-1315 Esquimalt Rd.  
Victoria, BC  
V9A 3P5

COPY

Re: 737 Princess Ave. / Bylaw File #33487

Dear Sir,

This letter is a follow-up to the safety and compliance inspection that was conducted at 737 Princess Avenue on July 23, 2013. 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 M-1, Limited Light Industrial District and the legal use of the structure located upon this property according to our records is single-family dwelling (SFD). The inspection revealed that the structure has been altered substantially and now contains 3 separate self-contained dwelling units. All of this work has evidently been completed without building, plumbing, or electrical 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 7.1 Sec. 1 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.

#### *Building Bylaw*

The inspection revealed a number of safety issues and violations related to work that have been done without permit. The Building Inspector's report of his findings and various options available to you to bring the property into compliance is very detailed so it has been included on the following page for your review.

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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)

#### **ITEM 1 - SFD CONVERSION TO A 3-SUITE RESIDENTIAL BUILDING**

The last approved and known use of this building was as a single-family dwelling. The building has been substantially altered and is currently being used as a 3-suite building. There is a common laundry room area accessible from the exterior at the rear of the building. The first floor level has one private entry/exit, the second floor level has one private entry/exit and one shared entry/exit, and third floor level has one shared entry/exit. There are a number of BC Building Code items that are non-conforming, and the finished state of the building is not conducive to confirming compliance visually. These items include many building systems such as, but not limited to;

- Fire & sound separations
- Ventilation systems
- Structural & non-structural framing assemblies
- Smoke alarms
- Exit exposure protection
- Shared egress requirements
- Vertical travel limits to exits
- Building envelope assemblies around wall penetrations
- Spatial separation requirements

These items are just a sample of items requiring attention. Options for the use of this building are as follows:

1. Obtain a building permit to return this building into its last approved state as a single-family dwelling (SFD).
2. Obtain a building permit to legalize a 2-suite residential use. Note that all work will be considered new work and must conform to the 2012 BC Building Code. Further, this option may involve a re-Zoning and some sort of variance for this use.
3. Obtain a building permit to legalize a single family dwelling with a secondary suite. Note that all work will be considered new work and must conform to the 2012 BC Building Code. Further, this option may involve a re-Zoning and some sort of variance for this use.
4. Obtain a building permit to lift the building and legalize a 3-suite residential use. (See second finding below.) Note that all work will be considered new work and must conform to the 2012 BC Building Code. Further, this option may involve a re-Zoning and some sort of variance for this use.

#### **ITEM 2 - BASEMENT CONVERTED INTO HABITABLE SPACE, AND A SEPARATE SUITE**

The unfinished basement of the property has been converted into livable space in the form of a private residential suite with 5 bedrooms, a bathroom and a kitchen. As the ceiling height is approximately 5'9", this space is not permitted to be used as habitable space. Options for this space are as follows:

1. Obtain a demolition permit and remove all finishing work and restore the space to an unfinished state.
2. Obtain a building permit to raise the building to accommodate a 2.1 m finished ceiling height and convert this space into habitable space.
3. Obtain a building permit to raise the building to accommodate a 2.0 m finished ceiling height and convert this space into secondary suite.

#### **ITEM 3 - ATTIC APPEARS TO HAVE BEEN FINISHED INTO HABITABLE SPACE**

Records for this building are not thorough enough to determine that the third floor level was ever permitted. Based on ceiling heights, access to the storey and the era of this building's construction, it is the belief of the building inspector that this space was never designed as a finished space. As such, it is the owner's responsibility to prove to the City that this floor level was created legally with a building permit in order for it to be allowed to be used in the future as it is currently when considering any of the above items. This will involve providing old building records, opening up construction assemblies for inspections, and/or providing thorough reports from registered professionals that can confirm use and assemblies. Failing this, the third floor level must be converted back into an unfinished attic.

#### **ITEM 4 - FRONT AND REAR DECK & STAIR ASSEMBLIES ARE NOT CODE-COMPLIANT**

The front and rear decks have been installed in such a way that the structures and dimensions are mostly non-conforming to the BC Building Code. The only options for these assemblies are to obtain building permits to re-construct the deck and stair assemblies, creating Code conforming structures. These permits must align with all other directions outlined in the above items.



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 violations related to work that have been done without permit to install additional plumbing fixtures in the lower and upper floor suites as well as the common laundry room. Completing plumbing work without a valid plumbing permit is an offence for which the penalty is a fine of \$400 per day as per Sec. 6(1) of the *Plumbing Bylaw*.

*Electrical Safety Regulation Bylaw*

The inspection revealed violations related to work that have been done without permit to convert the structure from an SFD to a triplex. 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*

The inspection revealed that you are currently renting 3 separate self-contained suites and/or individual rooms. Providing rental accommodation is an activity for which a business license is required. 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 Electrical Inspector, and/or the Fire Inspector, you are hereby directed to take the following action:

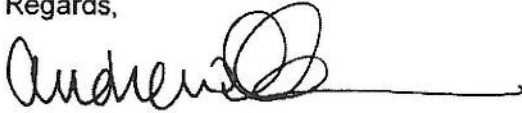
1. Vacate the unpermitted residential occupancy of both; the top floor suite and the basement suite on or before September 30, 2013.
2. Make application for the building, plumbing, and/or electrical permit(s) required to return this property to a permitted use (as outlined in the Building Inspector's report) by September 30, 2013.
3. Make application for a business license by September 30, 2013. Note that the license(s) will not be issued until such time as occupancy has been re-issued.
4. Complete all the work required to return the property to a legal use, pass all follow-up inspections, and obtain a new occupancy permit by October 31, 2013.

**Failure to comply with the above will result in the issuance of fines, the placing of a notice on land title, and/or further legal action.**



Should you have any questions regarding the direction you have been given please do not hesitate to contact me directly by telephone 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', followed by a long horizontal line.

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

Cc: Reed Cassidy, Building Inspector  
Mike Shea, Chief Electrical Inspector  
Roy Kellington, Plumbing Inspector  
Chris Kelly, Fire Prevention Officer  
Thom Pebernat, Zoning Administrator  
Kim Ferris, Business License Inspector  
Bylaw File #33487