

Planning and Land Use Standing Committee Report

Date: November 14, 2013

From: Robert Woodland
Director, Legislative & Regulatory Services

Subject: Illegal use and work without permit – 724 Craigflower Rd. / Bylaw File #26642

Executive Summary

The purpose of this report is to recommend the filing of a Notice on Title in respect to work completed without permit to construct a basement suite in a single family dwelling; and for the placement of an accessory building; both, in contravention of the Zoning Regulation Bylaw. The owner has repeatedly failed to comply with any direction given and has made no effort to bring the property into compliance.

Recommendation

The Building Inspector recommends:

- That the Committee direct the Corporate Administrator to file a notice on title in the Land Title Office in relation to the property located at 724 Craigflower Road, legally described as LOT 4, SECTION 10, ESQUIMALT, PLAN 288, indicating that a resolution relating to this property had 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 and Regulatory Services Department in Victoria City Hall.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "M. Frankl", is written over a horizontal line.

Mia Frankl
Bylaw Officer
Bylaw & Licensing Services

A handwritten signature in dark ink, appearing to read "R. Woodland", is written over a horizontal line.

Robert Woodland
Director
Legislative & Regulatory Services

A handwritten signature in dark ink, appearing to read "Mark Hayden", is written over a horizontal line.

Mark Hayden
Building Inspector, Manager
Bylaw & Licensing Services

List of Attachments

Appendix A – Letter to owner dated July 17, 2012

Appendix B – Photos of Zoning set back violation dated January 22, 2013

Appendix C – Letter to owner dated Feb 7, 2013

Appendix D – Letter to owner dated June 19, 2013

Appendix E – Legal survey of property line for 724 Craigflower and 720 Craigflower

Appendix F – Photo of the shed with property line survey stake

Purpose

The purpose of this report is to advise the Planning & Land Use Committee about the conditions and illegal use of the property at 724 Craigflower Road and of the enforcement action that has been taken in order to secure voluntary compliance with Section 2.2(1) of the Building Bylaw and Schedule F of the Zoning Regulation Bylaw. This report sets forth a recommendation 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 the existence of a self-contained dwelling unit on the ground floor and failing to meet the setback requirements for an accessory building in the backyard.

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 under Section 57 of the *Community Charter*, Council must give the Building Inspector and 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 decision under Section 57 of the *Community Charter* to the Planning and Land Use 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 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 724 Craigflower Road is located in the Victoria West neighborhood in a R1-B, Single Family Dwelling District. The approved use of the property per the approved building plans is Single Family Dwelling. The actual use is a single family dwelling with a self-contained basement suite. This suite was installed without City permits and violates the Zoning Regulation

Bylaw, Building Bylaw, Plumbing Bylaw and Electrical Bylaw for illegal use and work without permit.

Further, there is an accessory building in the backyard which violates the Zoning Regulation Bylaw setback requirements for accessory buildings. Schedule F of the Zoning Regulation Bylaw requires a 60 cm setback from each property line. A legal survey was provided to the City in June 2013 and confirms the accessory building to be in violation of the setback for the southern property line by 22 cm. The property owner has been contacted multiple times to address these bylaw violations and to date has failed to take any remediation action to bring his property into compliance. He failed to attend and/or have a representative attend an inspection of the basement suite despite proper notification. In addition, the owner has failed to move the shed despite months of time to address the situation.

Options and Impacts

The filing of a notice on 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 completed without a permit. Filing a notice on title under Section 57 of the *Community Charter* is therefore intended to ensure that a potential purchaser is aware of bylaw violations in respect to the self-contained dwelling unit in the basement and the accessory building in the yard. 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 on property and property use are in compliance with the provisions of the Zoning Regulation Bylaw and Building Bylaw as appropriate. This in turn helps ensure congruency with the OCP.

Financial and Staff Capacity Assessment

Staff has spent approximately 23 hours working on this file to obtain compliance. Filing 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 direct representations to the Committee in respect of the recommendation or 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

Despite ongoing extensions to bring the property into compliance, the property owner has repeatedly failed to take the action required to bring the property into compliance. As a result 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 provide incentive to the owner to bring the property into compliance.

Recommendation

The Building Inspector recommends:

- That the Committee direct the Corporate Administrator to file a notice on title in the Land Title Office in relation to the property located at 724 Craigflower Road, legally described as **LOT 4, SECTION 10, ESQUIMALT, PLAN 288** 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 and Regulatory Services Department in Victoria City Hall.



July 17, 2012

Legislative and
Regulatory Services
Department

Bylaw and Licensing
Services Division

1 Centennial Square
Victoria BC V8W 1P6

Mr. William Inrig
724 Craigflower Rd.
Victoria, BC
V9A 2W5

Re: 724 Craigflower Rd. / Bylaw File #25371

Dear Sir,

This letter is to advise you that the City of Victoria has received a formal complaint from an area resident regarding the placement of an accessory building (and/or shed) on your property in relation to the property lines. Specifically the complaints relates to the amount of space and/or "setback" between the shed and the property line. I attended the property today to investigate and measured the distance between the shed and the neighbouring property as being approximately 60cm. In addition, I measured the distance between the shed and the property to the rear of yours to be approximately 38cm.

Be advised that your property is currently zoned R1-B Single Family Dwelling District. The regulations pertaining to accessory buildings are contained within Schedule F of the City's *Zoning Regulation Bylaw*. Schedule F (see attached) requires that accessory buildings have a minimum setback of 0.6m (or 60cm) from the property line. Placing an accessory building within 0.6m of the property line is considered a "use contrary to the bylaw" as per Section 16(1) of the City's *Zoning Regulation Bylaw*. This is an offence for which the prescribed penalty is a fine of \$350 per day for each day that the offence continues.

While, it would appear that the setback with the neighbouring property currently meets the requirements I have been told that the position of the existing fence does not accurately represent the location of the property line. If so it would appear that the shed has been placed in violation of both the side and rear yard setbacks. As a result, I have no option but to direct that the accessory building be moved so as to ensure that the minimum 0.6m setback requirement is met. Failure to comply as directed by October 15, 2012 may result in the issuance of fine(s) and/or further legal action including the placing of a *Notice on Title*.

If you have any questions or concerns about the impending enforcement action, please don't hesitate to contact me directly by telephone at 250.361.0578 or by email at adolan@victoria.ca

To Contact

Telephone: 250.361.0215

E-Mail: bylawenforcement@victoria.ca

Fax: 250.361.0205

Web: www.victoria.ca

City of Victoria acknowledges the Songhees and Esquimalt Nations in whose traditional territories we live and work
"Hay swx qa"

Regards,

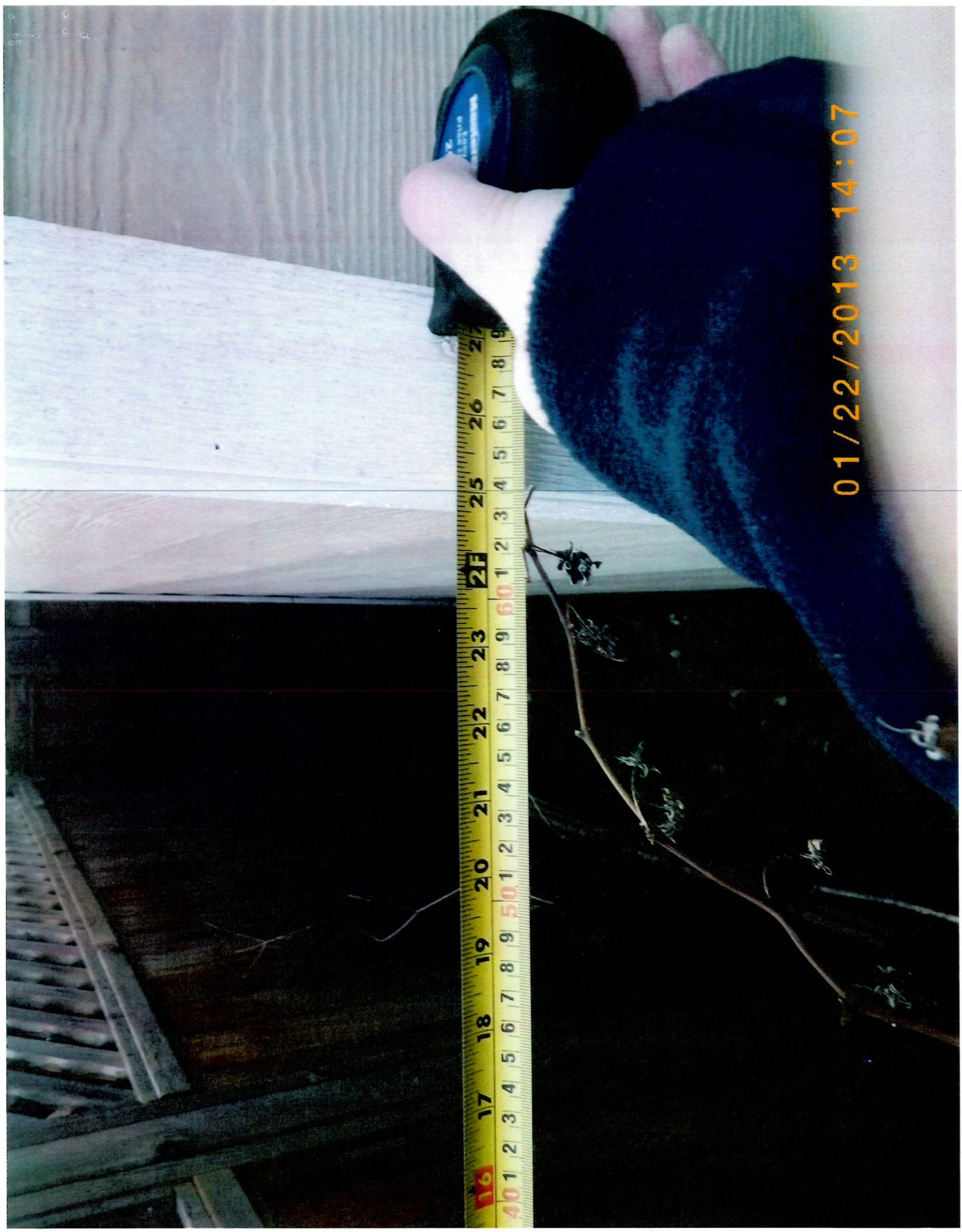
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Andrew Dolan
Senior Bylaw Officer
Bylaw & Licensing Services
City of Victoria

Cc: Duane Blewett, Senior Planning Technician
Bylaw File #25371
Complainant(s)

90:41 3102/2013





01/22/2013 14:07



Legislative and
Regulatory Services
Department

Bylaw and Licensing
Services Division

1 Centennial Square
Victoria BC V8W 1P6

February 7, 2013

Mr. William Inrig
724 Craigflower Rd.
Victoria, BC
V9A 2W5

Re: 724 Craigflower Rd. / Bylaw File #25371

Dear Sir,

This letter is a follow-up to my letter dated July 17, 2012 (enclosed) in which you were advised of a complaint regarding the placement of an accessory building (and/or shed) on your property in relation to the property lines. You were advised that accessory buildings require a minimum setback of 0.6m (or 60cm) from the property line and that placing an accessory building within 0.6m of the property line is an offence. As a result, you were directed to move the shed so as to ensure that it is placed a minimum of 60cm from both the side and rear property lines.

I re-attended your property recently and observed that despite having more than 6 months within which to comply and move the shed you have failed to do so. The enclosed photograph shows that the shed is only 37cm from the rear property line and therefore still in violation of Schedule F of the *Zoning Regulation Bylaw*. As previously stated this is an offence for which the penalty is a fine of \$350 per day for each day that the offence continues. While I am willing to grant you a final 14 days to move the shed, I am prepared to start issuing you fines if you don't complete the task.

This is your final opportunity to comply voluntarily. Unless the shed is moved so as to comply with the required setbacks by February 28, 2013 you will be ticketed and I will begin the process of placing a *Notice on Title*. The filing of a notice on land title is part of a graduated enforcement strategy intended to warn lenders and/or prospective purchasers that a bylaw violation exists. If you have any questions or concerns about the impending enforcement action, please don't hesitate to contact me directly by telephone at 250.361.0578 or by email at 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: Bylaw File #25371
Complainant(s)

To Contact

Telephone: 250.361.0215
E-Mail: bylawenforcement@victoria.ca

Fax: 250.361.0205
Web: www.victoria.ca



Legislative &
Regulatory
Services
Department

June 19, 2013

William Enrig
724 Craigflower Road
Victoria, B.C.
V9A 2W5

Bylaw & Licensing
Services Division

#1 Centennial Square
Victoria

British Columbia
V8W 1P6

Tel (250) 361-0215
Fax (250) 361-0205

www.victoria.ca

NOTICE OF INSPECTION

724 Craigflower Road

Dear Sir,

The City of Victoria has received reliable information that a secondary suite has been installed in your home without permit. Due to the potential contraventions of provincial and City regulations an investigation has commenced. As a result, this is formal notice of the City of Victoria's intention to conduct a safety and compliance inspection of your property at 724 Craigflower on **June 25, 2013 at 10:00 am**. Authority to conduct such an inspection is contained in Section 16(6) of the *Community Charter*.

The inspection will be conducted by a City Bylaw Enforcement Officer. The purpose of this inspection is to confirm that the property and the activities conducted within this property are in compliance with all of the applicable city bylaws and various other regional and provincial regulations. This is an important matter and your attendance is required in order to ensure that all areas of the property are accessible and available for inspection at this time.

Be advised that failure to comply with this *Notice of Inspection* will result in the City of Victoria obtaining a *Warrant of Entry* in the B.C. Provincial Court. This inspection should take approximately thirty (30) minutes. Thank you in advance for your cooperation. If you have questions or concerns regarding this inspection please do not hesitate to contact me at 250-361-0540 or by email at mfrankl@victoria.ca prior to the aforementioned date and time.

Regards,



Mia Frankl
Bylaw Officer

**Legislative and
Regulatory
Services
Department**

Legislative Services

#1 Centennial Square

Victoria

British Columbia

V8W 1P6

Tel (250) 361-0571

Fax (250) 361-0348

www.victoria.ca



January 6, 2014

William Inrig
724 Craigflower Road
Victoria, BC V9A 2W3

Dear Mr. Inrig:

Re: Illegal Use and Work without Permit – 724 Craigflower Road

Please be advised that City of Victoria staff is recommending to the Planning and Land Use Committee that the Corporate Administrator file a Notice in the Land Title Office regarding illegal use and work without permit for 724 Craigflower Road. A copy of the report is attached for your records.

A hearing will be held before the Planning and Land Use Committee to grant the applicant an opportunity to address this matter. Therefore, the registered owner is hereby requested to attend the Planning and Land Use Committee meeting on **Thursday, January 23, 2014, at 10:30 a.m.**, in the Council Chambers, at Victoria City Hall, #1 Centennial Square (corner of Douglas and Pandora) to be heard by the Committee.

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 Christine Havelka, Committee Secretary, at (250) 361-0571 local 2306, if you have any written materials you wish added to the agenda, by Thursday, January 16, 2014.

Yours truly,

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

Robert G. Woodland
Corporate Administrator
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Enclosure (1)

c. M. Frankl, Bylaw Officer
M. Hayden, Manager, Bylaw & Licensing Services



CRAIGFLOWER ROAD

23-23

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7

Steps and Landing

No. 724 Dwelling

2nd Storey Covered Deck

No. 720 Dwelling

No. 714 Dwelling

Deck

Trellis

Limits of Trellis overhang

PLAN

288

102' 8"

31.318

8


PLAN 11199

17

18

19

2

FILE: 10B45 - 23
DWG/DATE: 10B45/1 / 2013-05-27
 Brad Cunin Land Surveying
100 - 407 Swift Street
Victoria, BC V6M 1S2
ph. (250) 381-8015 (2257) fx. 381-2289

RECEIVED
JUN 10 2013



RECEIVED
JUN 10 2013