

HOUSING AGREEMENT (370 & 384 HARBOUR ROAD) BYLAW
A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to authorize an agreement for affordable rental housing for the lands known as 370 & 384 Harbour Road, Victoria, BC.

Under its statutory powers, including section 905 of the *Local Government Act*, the Council of The Corporation of the City of Victoria in an open meeting enacts the following provisions:

Title

- 1 This Bylaw may be cited as the "HOUSING AGREEMENT (370 & 384 HARBOUR ROAD) BYLAW".

Agreement authorized

- 2 The Mayor and the City's Corporate Administrator are authorized to execute the Housing Agreement

- (a) substantially in the form attached to this Bylaw as Schedule A;
- (b) between the City, Dockside Green Ltd., on behalf of Dockside Green Limited Partnership, and Catalyst Community Developments Society;
- (c) that applies to the lands known as 370 and 384 Harbour Road, Victoria, BC, legally described as:

PID #027-424-740

Lot 1 District Lot 119 Esquimalt District Plan VIP84612

PID #027-424-774

Lot 4 District Lot 119 Esquimalt District Plan VIP84612.

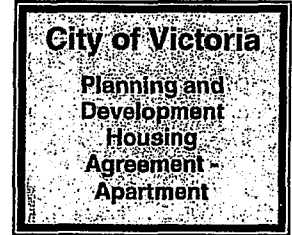
READ A FIRST TIME the	day of	2015.
READ A SECOND TIME the	day of	2015.
READ A THIRD TIME the	day of	2015.
ADOPTED on the	day of	2015.

CORPORATE ADMINISTRATOR

MAYOR

HOUSING AGREEMENT
(Pursuant to Section 905 of the *Local Government Act*)

THIS AGREEMENT is made the 21st day of August, 2015



BETWEEN:

THE CORPORATION OF THE CITY OF VICTORIA

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

(the "**City**")

**OF THE FIRST
PART**

AND:

DOCKSIDE GREEN LIMITED PARTNERSHIP

510 – 815 West Hastings Street
Vancouver, B.C.
V6C 1B4

(**"DGLP"**)

OF THE SECOND PART

AND:

CATALYST COMMUNITY DEVELOPMENTS SOCIETY

4487 James Street
Vancouver, B.C.
V5V 3H9

(**"Catalyst"**)

OF THE THIRD PART

AND:

**VANCOUVER CITY SAVINGS CREDIT UNION
(FI 809)**

(as to priority only – section 4.1)

WHEREAS:

- A. Under section 905 of the *Local Government Act* the City may, by bylaw, enter into a Housing Agreement with an owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 905(2) of the *Local Government Act*;
- B. Dockside Green Ltd. is the registered owner in fee simple, as the nominee and bare trustee of DGLP (Dockside Green and DGLP are hereafter referred to collectively as the "Owner"), of lands in the City of Victoria, British Columbia, with a civic address of 370 and 384 Harbour Road, Victoria, B.C. and legally described as:

PID 027-424-740
Lot 1 District Lot 119 Esquimalt District Plan VIP 84612

PID 027-424-774
Lot 4 District Lot 119 Esquimalt District Plan VIP 84612

(the "**Lands**");
- C. With the Owner's consent, Catalyst has applied to the City to permit development on the Lands by Catalyst of 49 Affordable Rental Units.
- D. The City and the Owner wish to enter into this Agreement, as a Housing Agreement pursuant to section 905 of the *Local Government Act*, to secure the agreement of the Owner and Catalyst to provide 49 Affordable Rental Units, and that all 49 Affordable Rental Units within the Development on the Lands will be used and held only as Affordable Rental Units.
- E. Catalyst has executed this Agreement in its capacity as the intended owner of the Lands and the Development, and has thereby agreed to observe and perform the obligations of the Owner under this Agreement from and after the date on which any interest in the Lands is transferred to Catalyst.

NOW THIS AGREEMENT WITNESSES that pursuant to section 905 of the *Local Government Act*, and in consideration of the premises and covenants contained in this agreement (the "**Agreement**"), the parties agree each with the other as follows:

1.0 Definitions

1.1 In this Agreement:

"**Affordable Housing**" means the provision of the Affordable Rental Units within the Development.

"Affordable Rental Units" means the 49 self-contained residential dwelling units within the Development that are to be used and occupied in accordance with section 2.0 of this Agreement.

"Bedroom" means a room within a Dwelling Unit that has a minimum size of 3.5 square meters and has an operable window that opens to the outdoors.

"CPI" means the All-items Consumer Price Index for Greater Victoria, B.C. published from time to time by Statistics Canada, or its successor in function.

"Development" means the development of two residential buildings (commonly called Building R4 and Building R5) containing a total of 49 Dwelling Units and associated servicing and landscaping which are to be constructed on the Lands.

"Dwelling Unit" means a self-contained residential dwelling unit within the building that will be constructed on the Lands, and includes any dwelling unit that is developed on the Lands in future, whether as part of the Development or otherwise, and "Dwelling Units" means collectively all of such residential dwelling units located on the Lands.

"Immediate Family" includes a person's husband, wife, child, mother, father, brother, sister, mother-in-law, father-in-law, grandparent, brother-in-law, sister-in-law, niece and nephew.

"Non-owner" means a person who occupies a Dwelling Unit for residential purposes, other than the Owner of that Dwelling Unit, and other than a member of the Owner's Immediate Family.

"Owner" includes a person who acquires an interest in the Lands or any part of the Lands and is thereby bound by this Agreement, as referred to in section 5.3.

"Perpetuity" means until such time as the Development is either lawfully demolished or substantially destroyed and not promptly rebuilt.

"Subdivision" means the division of land into two (2) or more parcels, whether by plan, strata plan, or otherwise, and includes subdivision under the Strata Property Act, and **"Subdivide"** has the corresponding meaning.

"Tenancy Agreement" has the same meaning as under the *Residential Tenancy Act*.

1.2 In this Agreement:

- (a) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment; and

- (b) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.

2.0 Affordable Housing Obligations

- 2.1 The Owner covenants and agrees that from and after issuance of an occupancy permit for the Development, a total of 49 residential Dwelling Units within the Development shall only be occupied and used as Affordable Rental Units in Perpetuity.
- 2.2 Each Affordable Rental Unit shall only be occupied by one or more Non-owners:
 - (a) under the terms of a Tenancy Agreement with the Owner; and
 - (b) whose combined annual household income at the commencement of their Tenancy Agreement is equal to or less than the Housing Income Limits (as hereinafter defined) that applies to the particular Affordable Rental Unit pursuant to section 2.3(a).
- 2.3 The Owner covenants and agrees that the rent for each Affordable Rental Unit shall not exceed:
 - (a) 30% of the Housing Income Limits ("HILs") that are determined from time to time by the British Columbia Housing Management Commission ("BC Housing"), and that apply to the particular Affordable Rental Unit, for example whether the Affordable Rental Unit is a Bachelor, 1 Bedroom or 2 Bedroom or 3 Bedroom Dwelling Unit; or
 - (b) In the event that BC Housing ceases to determine HILs and such determination is not replaced by a similar publication, then the income limit with respect to an Affordable Rental Unit shall be determined by reference to the last published HILs which shall be increased annually by an amount equal to the increase in the CPI commencing January 1 following the year BC Housing ceased determining HILs. For the purposes of this section, "CPI" means the All-items Consumer Price Index for Victoria, B.C. published from time to time by Statistics Canada, or its successor in function.
- 2.4 For the purpose of section 2.3 where rent is payable on a monthly basis and Housing Income Limits are reported or determined as an annual amount, either the rent or the income figures shall be adjusted to a monthly or annual amount so that an appropriate comparison can be made.
- 2.5 The Owner may subdivide or make application to the City for the Subdivision of the Lands provided that the Owner covenants and agrees that it will not

subdivide or make application to subdivide the Development under the *Strata Property Act* (British Columbia). This restriction shall not apply to the part of the Lands marked on the copy of the subdivision plan, attached hereto as Schedule A.

3.0 Reporting

3.1 The Owner covenants and agrees that upon the written request of the City, the Owner will provide to the City's Director of Sustainable Planning and Community Development (the "Director") a report (the "Report") in writing confirming, to the Director's satisfaction that the Owner continues to provide Affordable Housing, pursuant to section 2.0 in accordance with the requirements of this Agreement, which Report shall include, inter alia

- (a) the number, type and location by suite number, of Dwelling Units being rented to Non-owners as Affordable Rental Units and the rents being charged under section 2.3; and
- (b) such other information that the Director may reasonably require.

3.2 The Owner hereby irrevocably authorizes the City to make such inquiries as it considers necessary, acting reasonably, in order to confirm that the Owner is complying with this Agreement.

4.0 Priority Agreement

4.1 Vancouver City Savings Credit Union, the registered holder of charges by way of Mortgages and Assignments of Rent against the within described property which said charges are registered in the Land Title Office at Victoria, British Columbia, under numbers EX128529, EX128530, FB18910 and FB108911 for and in consideration of the sum of One Dollar (\$1.00) paid by the City (the receipt whereof is hereby acknowledged), agrees with the City that upon filing of a Notice with the Land Title Office that the Lands are subject to this Agreement, pursuant to section 905(5) of the *Local Government Act* (the "Notice"), this Agreement shall be an encumbrance upon the Lands in priority to the said charges in the same manner and to the same effect as if the Notice had been filed prior to the said charges. For certainty, upon the discharge of the aforesaid charges, following the transfer of the Lands, as consolidated and subdivided as the case may be, to Catalyst by Dockside Green Ltd., this section 4.1 shall be deemed to have been deleted from the Agreement without further action by the parties.

5.0 Notice to be Registered in Land Title Office

5.1 Notice of this Agreement ("**Notice**") will be registered in the Land Title Office by the City at the cost of the Owner in accordance with section 905 of the *Local*

Government Act, and this Agreement is binding on the parties to this Agreement as well as all persons who acquire an interest in the Lands after registration of the Notice.

6.0 Liability

- 6.1 The Owner agrees to indemnify and saves harmless the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from all claims, demands, actions, damages, costs and liabilities, which all or any of them shall or may be liable for or suffer or incur or be put to by reason of or arising out of failure of the Owner to comply with the terms and conditions of this Agreement which occurred while the Owner is the owner of the Lands.
- 6.2 The Owner hereby releases and forever discharges the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from any and all claims, demands, actions, damages, economic loss, costs and liabilities which the Owner now has or hereafter may have with respect to or by reason of or arising out of the fact that the Lands are encumbered by and affected by this Agreement.

7.0 General Provisions

Notice

- 7.1 If sent as follows, notice under this Agreement is considered to be received

- (a) seventy-two (72) hours after the time of its mailing (by registered mail) or faxing, and
- (b) on the date of delivery if hand-delivered,

to the City:

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

Attention: Director of Sustainable Planning and
Community Development
Fax: 250-361-0386

to the Owner:

Dockside Green Ltd.
510 – 815 West Hastings Street
Vancouver, B.C. V6C 1B4

to Catalyst:

Catalyst Community Developments Society
4487 James Street
Vancouver, B.C. V5V 3H9

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

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

- (a) notice sent by the impaired service is considered to be received on the date of delivery, and
- (b) the sending party must use its best efforts to ensure prompt receipt of a notice by using other uninterrupted services, or by hand-delivering the notice.

Time

7.2 Time is of the essence of this Agreement.

Binding Effect

7.3 This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees. In accordance with section 905(6) of the *Local Government Act*, this Agreement is binding on all who acquire an interest in the Lands, and the Owner only during the Owner's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Owner has an interest. Without limiting the generality of the foregoing, Catalyst agrees to observe and perform the obligations of the Owner under this Agreement from and after the date on which any interest in the Lands is transferred to Catalyst.

Waiver

7.4 The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be

construed as a waiver of any future or continuing failure, whether similar or dissimilar.

Headings

- 7.5 The headings in this Agreement are inserted for convenience and reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.

Language

- 7.6 Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.

Equitable Remedies

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

Cumulative Remedies

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

Entire Agreement

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

Further Assurances

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

Amendment

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

Law Applicable

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

No Derogation from Statutory Authority

7.13 Nothing in this Agreement shall:

- (a) limit, impair, fetter or derogate from the statutory powers of the City all of which powers may be exercised by the City from time to time and at any time to the fullest extent that the City is enabled and no permissive bylaw enacted by the City, or permit, licence or approval, granted, made or issued thereunder, or pursuant to statute, by the City shall estop, limit or impair the City from relying upon and enforcing this Agreement; or
- (b) relieves the Owner from complying with any enactment, including the City's bylaws, or any obligation of the Owner under any other agreement with the City.

Joint and Several

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

Counterpart

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

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

THE CORPORATION OF THE CITY OF VICTORIA by its authorized signatories:

Mayor Lisa Helps

Corporate Administrator Robert Woodland

DOCKSIDE GREEN LIMITED PARTNERSHIP)
 by its General Partner Dockside Green Ltd., by if)
 authorized signatories:)

Print Name: NORMAN SHEARING)

Print Name: [Signature])

CATALYST COMMUNITY DEVELOPMENTS)
SOCIETY by its authorized signatories:)

Print Name: [Signature])

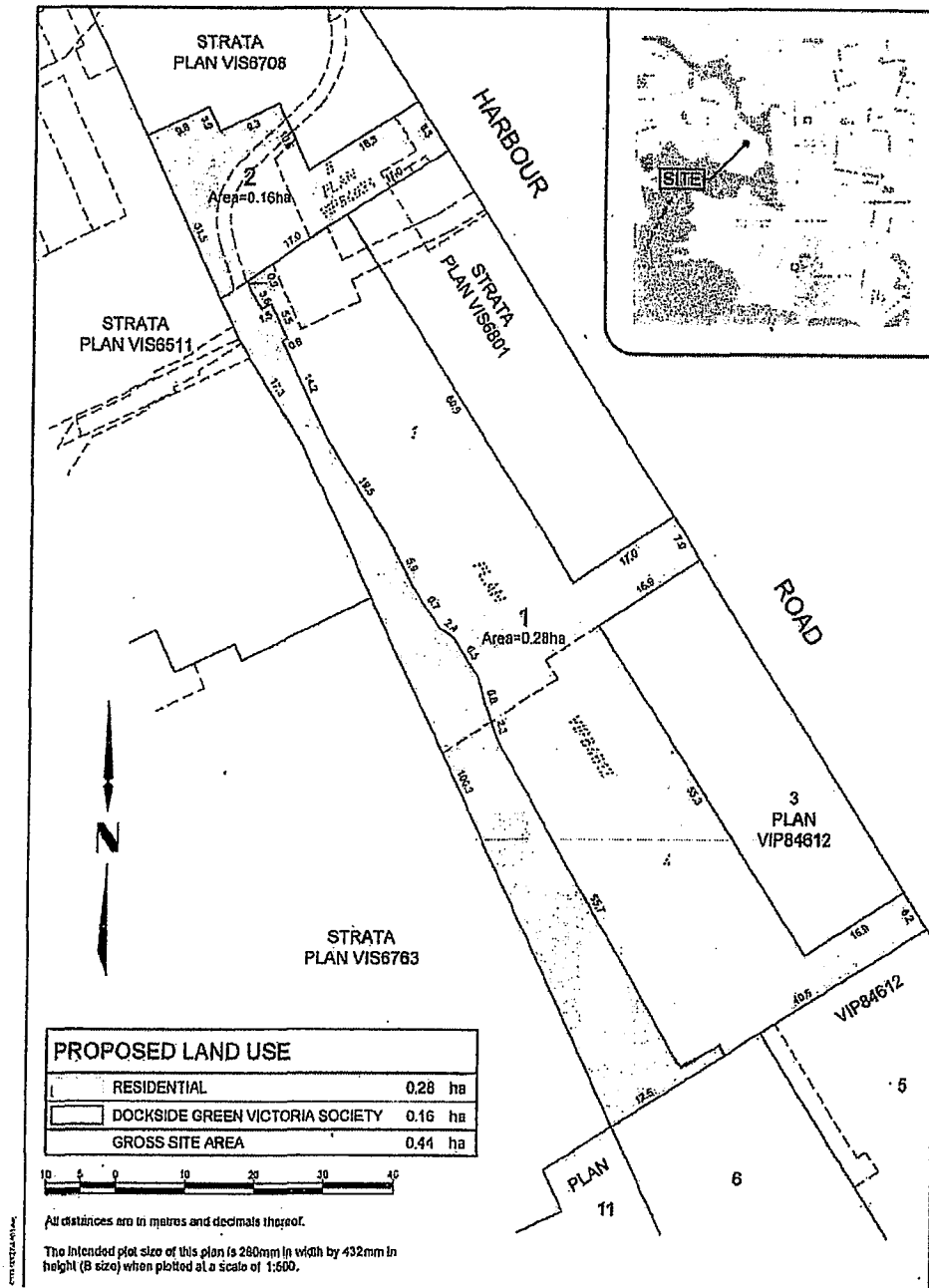
Print Name: Robert Brown)

VANCOUVER CITY SAVINGS CREDIT UNION)
 (as to priority only) by its authorized signatories:)

Print Name: [Signature])
SHIRLEY-ANNE BLACKADDER)

Print Name: [Signature])

SCHEDULE A



NOTICE OF PUBLIC HEARING

OFFICIAL COMMUNITY PLAN BYLAW, 2012, AMENDMENT BYLAW (NO. 17) - NO. 15-067:

The Official Community Plan Amendment Application proposes revisions to the Design Guidelines for the Dockside Area. The proposed amendments, which are in relation to a proposal to construct 49 non-market rental residential units at the property with civic address 370 and 384 Harbour Road would allow:

- residential use on the ground floor of a building
- the development of a building that will be used for residential purposes with no buffer from Harbour Road being provided by another building.

APPLICATION FOR REZONING OF PROPERTY KNOWN AS 370 AND 384 HARBOUR ROAD:

ZONING REGULATION BYLAW, AMENDMENT BYLAW (NO. 1047) - No. 15-066:

To amend the Zoning Regulation Bylaw for the CD-9 Zone, Dockside District, by:

- amending the definition of “affordable housing” to ensure that the parking calculations for affordable housing will apply to the proposed development of 49 non-market rental residential units on the property with civic address 370 and 384 Harbour Road; and
- moving the existing siting restrictions from the definition of “attached dwellings” in the regulations for Development Area D to a new stand-alone regulation for the siting of attached dwellings, so that Council may vary those siting regulations in relation to the development of 49 non-market rental residential units on the property with civic address 370 and 384 Harbour Road.

Existing Zone: CD-9 Zone, Dockside District

Legal description: Lot 1, District Lot, 119 Esquimalt District Plan, VIP84612
Lot 4, District Lot, 119 Esquimalt District Plan, VIP84612

DEVELOPMENT PERMIT WITH VARIANCES APPLICATION

The Council of the City of Victoria will also consider issuing a Development Permit with Variances for 49 non-market rental residential units at 370 and 384 Harbour Road, in Development Permit Area 13: Core Songhees for the purposes of approving the exterior design and finishes, as well as landscaping, and varying certain requirements of the *Zoning Regulation Bylaw*, namely:

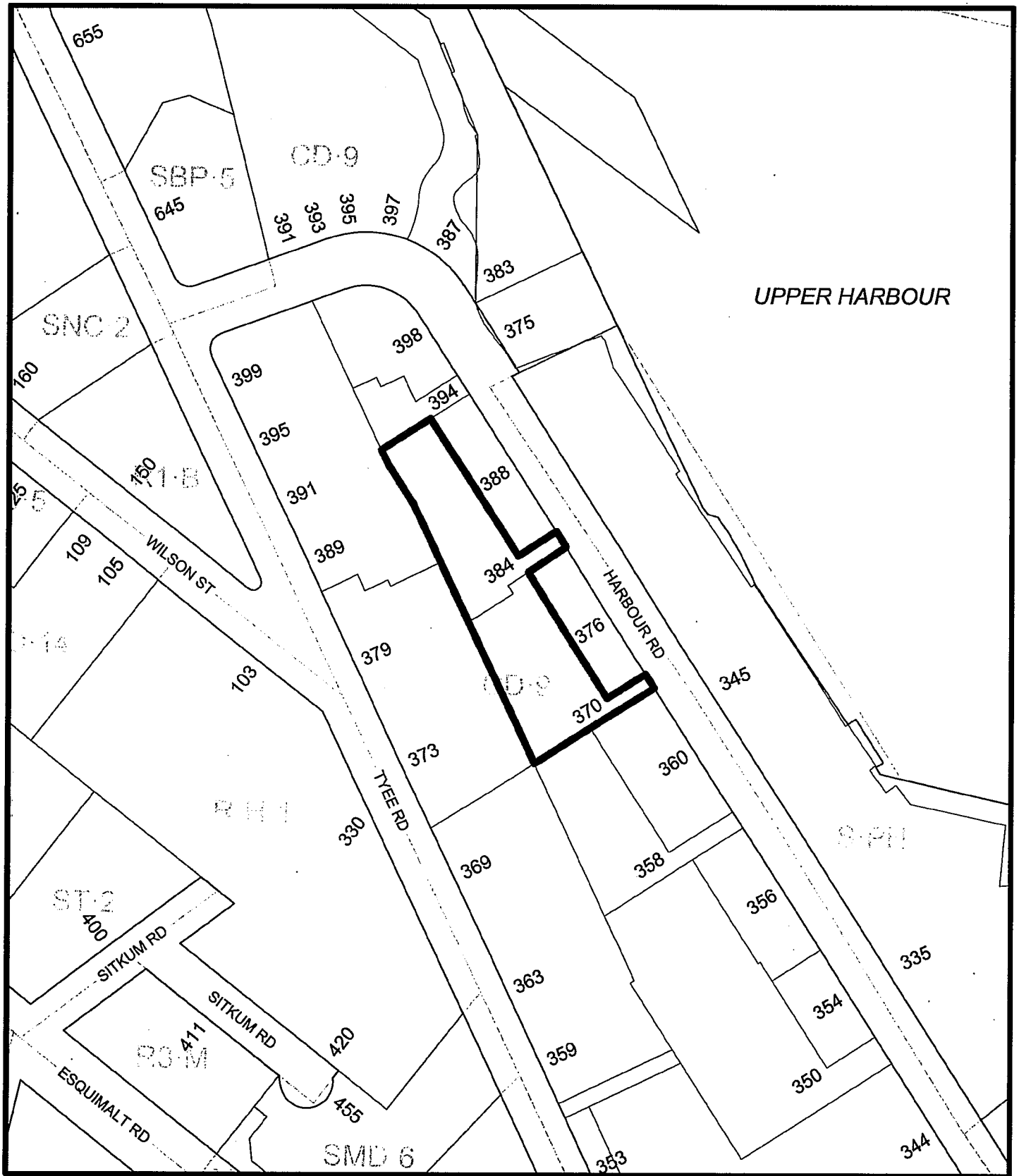
- permit residential uses on the ground floor of a building
- permit residential units to face Harbour Road without a building buffer.

Members of the public interested in this matter will be given an opportunity to be heard by City Council at a Public Hearing to be held in the Council Chamber, City Hall, #1 Centennial Square, Victoria, B.C., on Thursday, _____, 2015, at 7:00 p.m.

Correspondence can be submitted for inclusion in the meeting agenda via mail to the address noted above, or by email at: publichearings@victoria.ca. Correspondence should be received by 11:00 a.m. the day before the Council meeting.

Copies of the proposed Bylaw and other relevant documents and information may be inspected at City Hall, #1 Centennial Square, Victoria, B.C. from the date of this Notice to and including the date of the Public Hearing, from 8:00 a.m. to 4:30 p.m., from Monday to Friday both inclusive, excluding public holidays.

Please note that all correspondence submitted to the City of Victoria in response to this Notice will form part of the public record and will be published in a meeting agenda when this matter is before the Council or a Committee of Council. The City considers the author's address relevant to Council's consideration of this matter and will disclose this personal information. The author's phone number and email address is not relevant and should not be included in the correspondence if the author does not wish this personal information disclosed.



370 and 384 Harbour Road
 Rezoning #00478
 Bylaw #

