



Council Report

For the Meeting of June 25, 2015

To: Council **Date:** June 4, 2015

From: Charlotte Wain, Senior Planner – Urban Design, Development Services Division

Subject: Rezoning Application No. 00421 for 1315 Richardson Street - Application ready to proceed to Public Hearing

RECOMMENDATION

Staff recommend that Council receive this report for information and that the Rezoning Application proceed to a Public Hearing in accordance with Council's resolution of October 23, 2014.

EXECUTIVE SUMMARY

The purpose of this report is to inform Council that, in accordance with Council's motion of October 23, 2014 (attached), the necessary pre-conditions have been met and the Zoning Regulation Bylaw Amendment that would authorize Rezoning Application No. 00421 for the property located at 1315 Richardson Street has been prepared. The Planning and Land Use Committee report dated September 25, 2014, along with the meeting minutes, are attached. With regard to the pre-conditions associated with this Application, staff can report that the registration of a Statutory Right-of-Way of 0.856m on Richardson Street has now been submitted by the applicant (attached).

The recommendation provided above contains the appropriate language to advance Rezoning Application No. 00421 for consideration at a Public Hearing.

Respectfully submitted,

Handwritten signature of Charlotte Wain in cursive.

Charlotte Wain
Senior Planner – Urban Design
Development Services Division

Handwritten signature of Alison Meyer in cursive.

Alison Meyer, Assistant Director
Development Services Division
Sustainable Planning and
Community Development
Department

Handwritten signature of Andrea Hudson in cursive, with "for" written below it.

Andrea Hudson
Acting Director
Sustainable Planning
and Community
Development
Department

Report accepted and recommended by the City Manager:



Jason Johnson

Date:

June 8, 2015

CW:aw

S:\TEMPEST_ATTACHMENTS\PROSPERO\PL\REZ\REZ00421\COUNCIL REPORT.DOC

List of Attachments

- Planning and Land Use Committee report dated September 25, 2014
- Planning and Land Use Committee minutes dated October 16, 2014
- Minutes from October 23, 2014, Council Meeting
- Registered Statutory Right-of-Way.



Planning and Land Use Committee Report

To: Planning and Land Use Committee **Date:** September 25, 2014
From: Charlotte Wain, Senior Planner – Urban Design
Subject: Rezoning Application #00421 and Development Permit Application for 1315 Richardson Street – Application to permit the construction of a garden suite

Executive Summary

The purpose of this report is to present Council with information, analysis and recommendations regarding a Rezoning Application with Development Permit for the property at 1315 Richardson Street. The Rezoning Application is to rezone the property from the R1-B Zone (Single Family Dwelling District) to the R1-B-GS2 Zone (Single Family Dwelling with Garden Suite District) to permit the construction of a 51 m² one-and-a-half storey garden suite.

The following points were considered in assessing this application:

- The proposal is consistent with the Traditional Residential Urban Place Designation in the *Official Community Plan 2012* (OCP) and related objectives for sensitive infill in Development Permit Area 15E: Intensive Residential Garden Suites.
- The *Garden Suite Policy* identifies this R1-B Zoned property as a potential garden suite "plus site", as the lot size exceeds 557 m².
- The proposed design and siting of the garden suite is consistent with the *Garden Suite Policy*, 2011.
- The garden suite will have minimal visual, privacy and shadowing impacts on adjacent properties.
- The proposal requires a variance to allow the garden suite to be located in the front yard of the existing panhandle lot.

For the reasons listed above, staff recommend that the Planning and Land Use Committee advance this Rezoning Application to a Public Hearing.

Recommendation

That Council instruct staff to prepare the necessary *Zoning Regulation Bylaw* amendment that would authorize the proposed development outlined in Rezoning Application with Development Permit #00421 for 1315 Richardson Street and advance it to a Public Hearing, subject to registration of a Statutory Right-of-Way of 0.856 m on Richardson Street to the satisfaction of the Director of Engineering and Public Works

Respectfully submitted,

C. R. Wain

Charlotte Wain
Senior Planner – Urban Design
Development Services Division

AM

A. E. Day

Deb Day, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:

[Signature]

Jason Johnson

Date: October 8, 2014

CW:aw

S:\TEMPEST_ATTACHMENTS\PROSPERO\PL\REZ\REZ00421\PLUSC PLANNING REPORT TEMPLATE REZ2.DOC

1.0 Purpose

The purpose of this report is to present Council with information, analysis and recommendations regarding a Rezoning Application with Development Permit for the property at 1315 Richardson Street. The Rezoning Application is to rezone the property from the R1-B Zone (Single Family Dwelling District) to the R1-B-GS2 Zone (Single Family Dwelling with Garden Suite District) to permit the construction of a 51 m² one-and-a-half storey garden suite.

2.0 Background

2.1 Description of Proposal

Details of the proposal are:

- The proposed garden suite will be located in the front yard of the existing panhandle lot and will not be viewed from the panhandle driveway. This choice in siting was made based on feedback from neighbours.
- The garden suite is approximately 51m² with one bedroom and has a private outdoor space located on its north side.
- New landscaping will be introduced along the south and west boundaries to delineate the private outdoor space for the garden suite.
- Exterior building materials include cedar board-and-batten siding, cedar shingles and cedar trim.

2.2 Sustainable Features

The sustainable features associated with this Application include retention of a permeable (gravel) surface strip within the panhandle driveway.

2.3 Land Use Context

The property is located in the Fairfield Neighbourhood and is in the R1-B Zone, Single Family Dwelling District, with single family dwellings being the predominant land use in the area. The two adjacent properties to the north are occupied by single family dwellings.

2.4 Improvements to the Transportation Network

The subject property is located on Richardson Street, which is defined as a secondary collector street. Richardson Street is substandard in width, which creates a challenge in terms of accommodating future transportation needs for improvements to bus lanes, bike lanes, sidewalks and boulevard placement. To accommodate these needs, the City would secure a 0.856 m Statutory Right-of-Way on Richardson Street as a condition of rezoning.

2.5 Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning Applications*, the Fairfield Gonzales CALUC hosted a meeting regarding the proposal on September 16 2013. A summary of the meeting had not been provided by the CALUC at the time of writing this report.

An email of support from adjacent neighbours at 1310 Richardson Street (across from the panhandle access driveway) has been included in the package for members of Council.

2.6 Existing Site Development and Development Potential

The 864 m² lot is in the R1-B Zone, Single Family Dwelling District, and is currently occupied by a single family dwelling. The existing house is non-conforming with respect to front yard parking, as well as rear yard setbacks. While a secondary suite is permitted, the under-height basement is not suitable for a secondary suite. The parcel qualifies as a "plus site" since it is over 557 m² in size, therefore, the floor area of a garden suite may be increased to 56 m². Should the rezoning proceed in compliance with the *Garden Suite Policy*, a single family dwelling and a garden suite will be permitted, thus precluding the use of the main dwelling for the inclusion of a secondary suite. The lot is exempt from the requirements of Schedule H (Panhandle Lot Regulations) since the lot was created prior to implementation of these regulations.

2.7 Data Table

The following data table compares the proposal with the R1-B-GS Zone (Single Family Dwelling with a Garden Suite District). An asterisk is used to identify where the proposal is less stringent than the proposed comparative existing zone.

Zoning Criteria	Proposal	Zone Standard R1-B-GS2 "Plus Site"
Site area (m ²) – minimum	864.3	557
Site area excluding panhandle driveway (m ²)	752.82	
Floor area of single family dwelling (m ²) – maximum	178.6	280
Garden suite floor area (m ²) – maximum	51	56
Storeys – maximum	1.5	1.5
Height (m) – maximum (for garden suite)	4.23	5.5
Total site coverage excluding panhandle driveway (%) – maximum	25	40
Setbacks (m) – minimum		
Interior lot line (west)	4.5	0.6
Side (south)	1.5	0.6
Separation Space Between Buildings (m) – minimum	5.49	2.4
Parking – minimum	2	1

2.8 Legal Description

Lot 9, Fairfield Farm Estate, Victoria City, Plan 1440.

2.9 Consistency with City Policy

2.9.1 Official Community Plan, 2012

The proposed development is consistent with the Urban Place designation policies for Traditional Residential within the *Official Community Plan (OCP)*, 2012. In accordance with the OCP, new garden suites are subject to Development Permit Area (DPA) 15E Intensive

Residential – Garden Suites. The proposal is consistent with the objectives of DPA 15E, to integrate more intensive residential development that is compatible with and respects the established character in residential areas.

2.9.2 Garden Suite Policy, 2011

The proposal is generally consistent with the relevant policies of the *Garden Suite Policy* by proposing:

- siting that attempts to minimize conflicts with neighbours
- high quality architecture, urban design and landscaping
- windows and entries that reduce potential privacy impacts on adjacent neighbours
- private outdoor amenity space for the garden suite
- retention of existing trees
- provision of screened garbage enclosures.

3.0 Issues and Analysis

The only issue associated with this application is related to the siting of the garden suite.

3.1 Garden Suite Siting

The proposed garden suite would be sited at the end of the panhandle driveway and would not be visible from Richardson Street. Staff requested the suite be moved further west so that it would be more visible from the street, in line with the recommendations of the Design Guidelines. However, the applicant wished to mitigate any siting and shading impacts on the adjacent neighbour to the west and maintain the 4.5 m setback from this boundary (3.9 m above the minimum requirements).

4.0 Resource Impacts

There are no resource impacts anticipated with this Application.

5.0 Conclusions

This proposal to construct a new garden suite at 1315 Richardson Street is consistent with the OCP objectives and guidelines for sensitive infill in the form of garden suites within established residential areas. The garden suite creates an opportunity for another form of rental housing.

Although the proposal is inconsistent with the *Garden Suite Policy* with respect to the suite's visibility from the street, the garden suite will prove a livable environment for its occupants with minimal infringement on the neighbouring dwellings. Both the main dwelling and the garden suite will enjoy private outdoor space in the rear yard.

Staff recommend that Council support this application.

6.0 Recommendations

6.1 Staff Recommendations

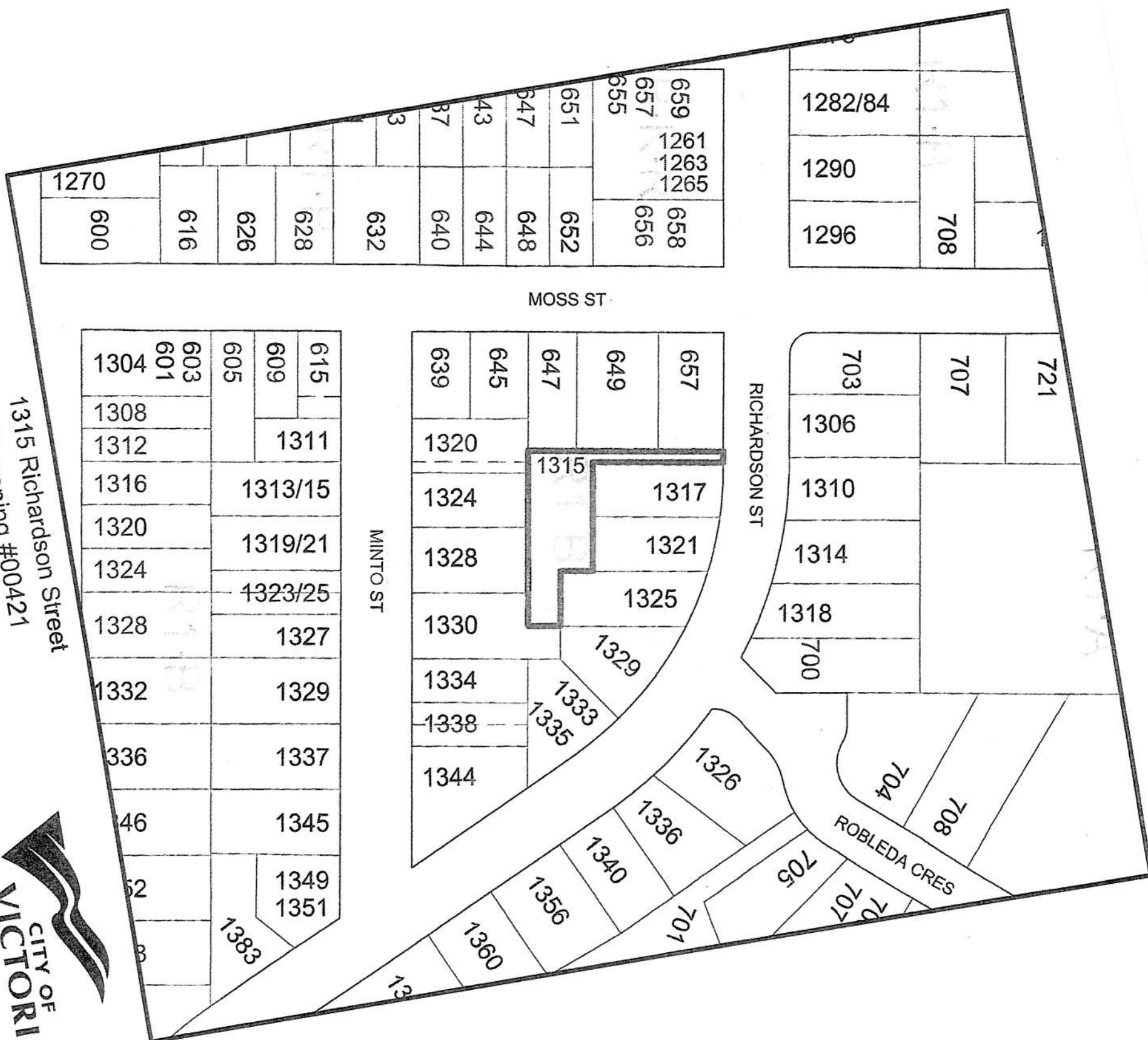
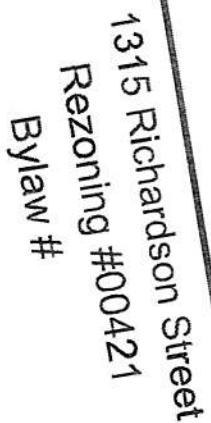
That Council instruct staff to prepare the necessary *Zoning Regulation Bylaw* amendment that would authorize the proposed development outlined in Rezoning Application with Development Permit #00421 for 1315 Richardson Street and that it advance to a Public Hearing subject to registration of a Statutory Right-of-Way of 0.856 m on Richardson Street to the satisfaction of the Director of Engineering and Public Works

6.2 Alternate Recommendation

That Rezoning Application with Development Permit #00421 for 1315 Richardson Street be declined.

7.0 List of Attachments

- Zoning map
- Aerial photo
- Letter from applicant dated September 16, 2014
- Plans for Rezoning Application with Development Permit #00421, dated September 16, 2014
- Email of support from neighbours at 1310 Richardson Street.

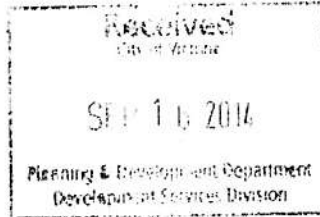




1315 Richardson Street
Rezoning #00421
Bylaw #



Whitney Davis
1315 Richardson Street
Victoria, BC, V8S 1P6
(250) 388-4060



September 16, 2014

Dear Mayor and Council:

My husband, Blair, and I are submitting an application to the City of Victoria to rezone from RB-1 to RB-1-GS-2, allowing for a secondary suite, which in our case will be a small, detached "garden suite". Our lot is large enough at approximately 9 thousand square feet, to permit this type of rezoning, with a high enough percentage of land- to dwelling- square footage. We also have determined that the height of the main dwelling's unfinished, uninsulated basement, which is 6'3", does not meet the height requirement for an attached suite in our basement.

We have designed a very small and tasteful building that we will build. It will moderately increase neighborhood density, and provide more diverse and affordable housing options in the area; we anticipate it being inhabited by a couple, a small family or single person.

The economic, environmental and social benefits to the City and neighborhood include more diverse and affordable rental housing options, add moderate densification to the area, it will provide this property with rental income option to soften the price of living in this area. The garden suite will be built with aesthetic and environmental considerations.

The building and proposal complies with city regulations and codes, compliments the surrounding dwellings, and fits with the landscape and lot shape. Our lot and layout is especially conducive to this type of rezoning as it is a larger-than-normal lot, it is private, and has enough space parking, thus street parking will not be compromised. The location of the garden suite is situated to enhance privacy between surrounding lots, with setbacks which create minimal shading and intrusion for neighbors. We have designed it with the intention of enhancing aesthetic and property/real estate value to the property and neighborhood, as well as to attract tenants who will appreciate Blair's careful workmanship and design, and who we hope will take extra great care of it, be upstanding residents, and a great addition to the Fairfield community.

Speaking with all our neighbors and the community meeting garnered nothing but favorable feedback and consent.

Please consider our application illustrating our intent to build a beautiful dwelling that reflects the City of Victoria's vision for the community, which will ultimately add value to neighborhood real estate.

Please do not hesitate to call us or stop by to see the site and/or ask any questions.

Whitney Davis

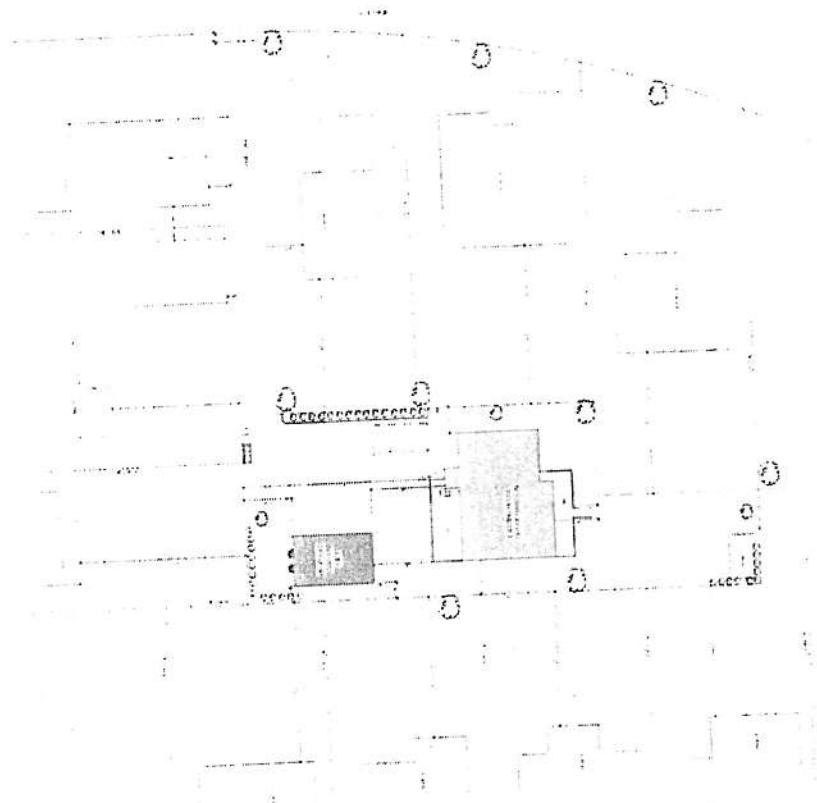
A handwritten signature in cursive script that reads "Whitney Davis".

Blair Hochhalter

A handwritten signature in cursive script that reads "Blair Hochhalter".

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2-038 B.I.V.
202/11 2400

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SECTION 1 AND DETAIL 19 AND
 DETAIL 20

PROPOSED GARBAGE ENCLOSURE ELEVATION
 SCALE 1/50

SECTION 1 AND DETAIL 19 AND
 DETAIL 20

Received
 City Division

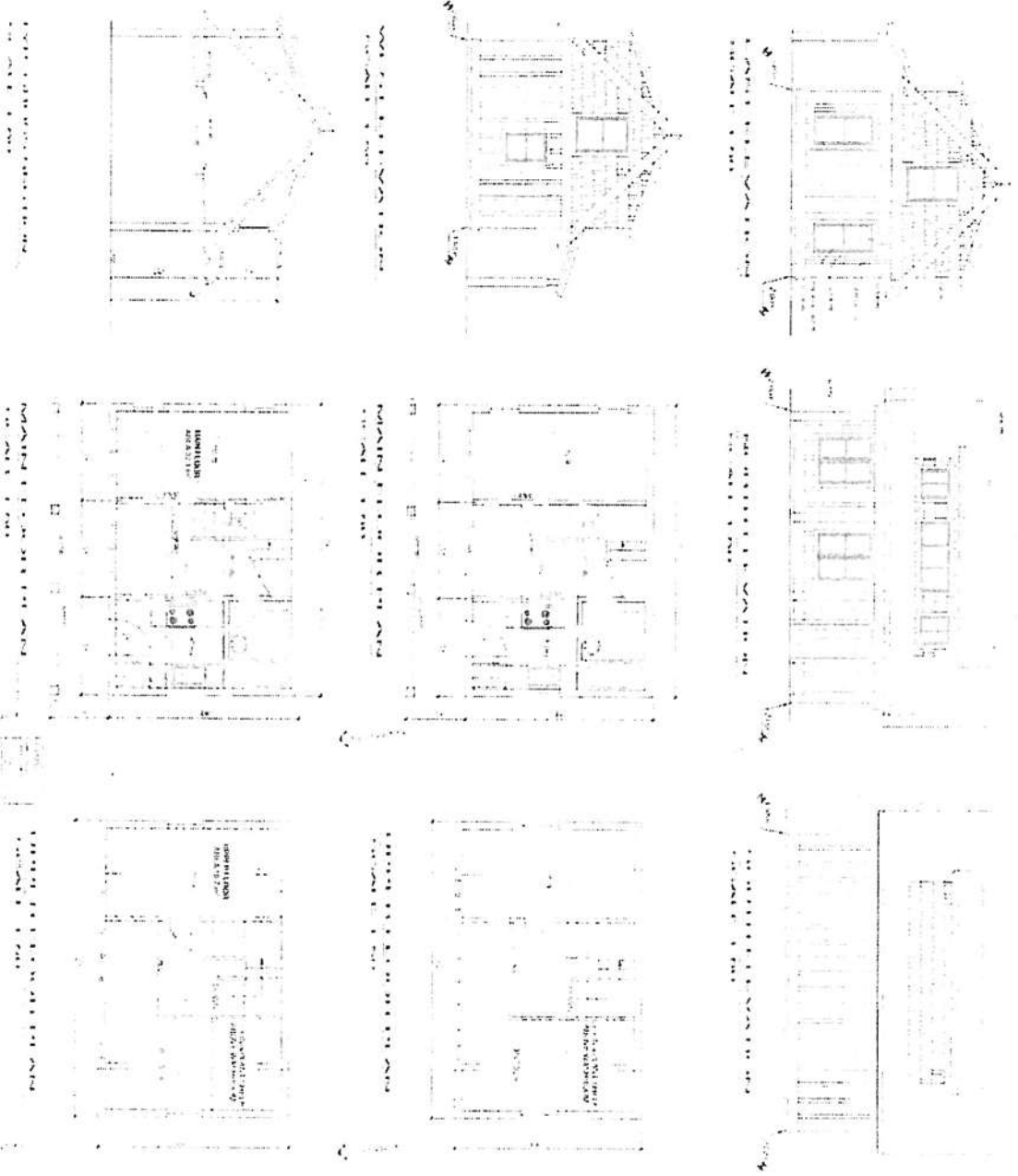
SEP 16 2014

Planning & Development Department
 Division of Engineering

BLAIR HOCHHALTER

115 ROBINSON STREET, VICTORIA, B.C.

#12

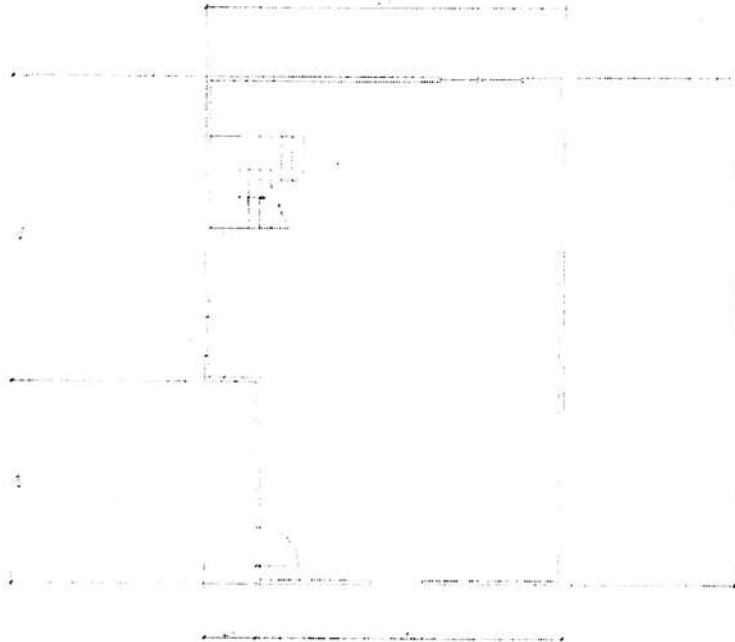


BLAIR HOCHHALTER

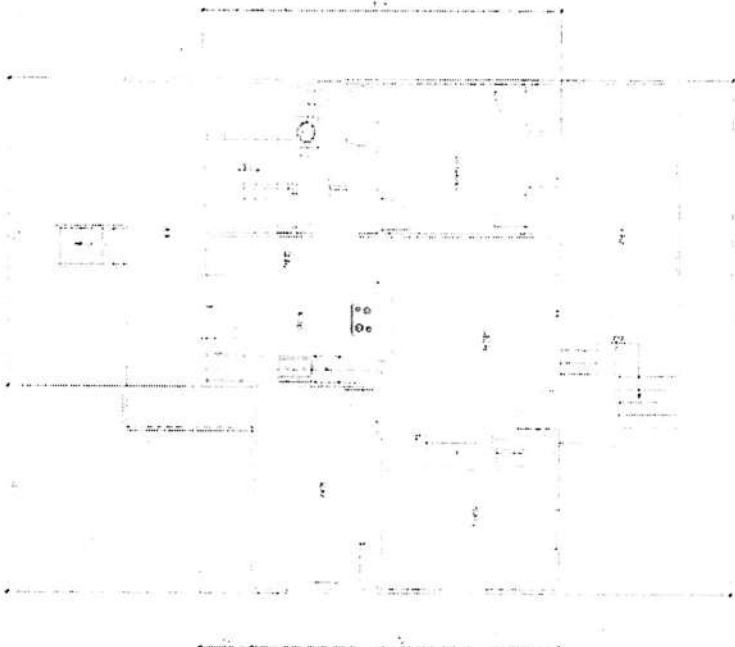
#21

Received
City of Victoria
SEP 16 2014

ROOM 1011 - 1012



ROOM 1013 - 1014



SEP 16 2014

Received
City of Victoria

BLAIR HOCHHALTER

Charlotte Wain

From: Paul Brown <planandzone@fairfieldcommunity.ca>
Sent: Monday, Sep 23, 2013 2:37 PM
To: Anita Walper
Subject: FW: Attention: Paul Brown - 1315 Richardson Development

fyi

From: Eriksen [<mailto:norway70@shaw.ca>]
Sent: September-17-13 12:01 PM
To: development@fairfieldcommunity.ca
Subject: Attention: Paul Brown - 1315 Richardson Development

We would like to let City Council know that we are in support of Blair Hochhalter and Whitney Davis' proposal for the development on 1315 Richardson Street. The development will not be seen from the street. We live directly across the street and we live on the Rockland hill so if anyone would see it, we would. The property and access road has been in long need of someone making an improvement on it. We believe that it will improve our neighbourhood.

Freida and Finn Eriksen
1310 Richardson Street

3. DECISION REQUEST

3.1 Rezoning Application No. 00421 and Development Permit Application for 1315 Richardson Street

Committee received a report dated September 25, 2014 which provided information, analysis and recommendations regarding a Rezoning Application with Development Permit for the property located at 1315 Richardson Street. The Rezoning Application is to rezone the property from the R1-B Zone (Single Family Dwelling District) to the R1-B-GS2 Zone (Single Family Dwelling with Garden Suite District) to permit the construction of a 51 m², one-and-a-half storey garden suite.

Action: It was moved by Councillor Madoff, seconded by Councillor Helps, that Committee recommends that Council instruct staff to prepare the necessary *Zoning Regulation Bylaw* amendment that would authorize the proposed development outlined in Rezoning Application with Development Permit #00421 for 1315 Richardson Street and advance it to Public Hearing, subject to registration of a Statutory Right-of-Way of 0.856 m on Richardson Street to the satisfaction of the Director of Engineering and Public Works.

Committee discussed:

- The unique shape of the lot, which favours a garden suite proposal.

CARRIED UNANIMOUSLY 14/PLUC0260

PLUC meeting
October 16, 2014

REPORTS OF THE COMMITTEE

2. Planning and Land Use Committee – October 16, 2014

3. Rezoning Application No. 00421 and Development Permit Application for 1315 Richardson Street:

It was moved by Councillor Helps, seconded by Councillor Alto, that Council instruct staff to prepare the necessary *Zoning Regulation Bylaw* amendment that would authorize the proposed development outlined in Rezoning Application with Development Permit #00421 for 1315 Richardson Street and advance it to Public Hearing, subject to registration of a Statutory Right-of-Way of 0.856 m on Richardson Street to the satisfaction of the Director of Engineering and Public Works.

Carried Unanimously

Council meeting
October 23, 2014

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Eric Alexander
Kerr FDSQRN

Digitally signed by Eric Alexander Kerr
FDSQRN
DN: c=CA, cn=Eric Alexander Kerr
FDSQRN, o=Lawyer, ou=Verify ID at
www.juricert.com/LKUP.cfm?
id=FDSQRN
Date: 2015.06.02 12:34:45 -07'00'

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Johns Southward Glazier Walton & Margetts

Barristers and Solicitors

204 - 655 Tyee Road

Victoria

BC V9A 6X5

Tel: 250-381-7321

File: 142000 EAK/gl

Document Fees: \$156.20

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

007-410-573

LOT 9 FAIRFIELD FARM ESTATE VICTORIA CITY PLAN 1440

STC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

SEE SCHEDULE

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.

(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

WHITNEY HERRICK DAVIS AND BLAIR ALLAN HOCHHALTER

ROYAL BANK OF CANADA (AS TO PRIORITY ONLY)

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

THE CORPORATION OF THE CITY OF VICTORIA

1 CENTENNIAL SQUARE

VICTORIA

BRITISH COLUMBIA

V8W 1P6

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

n/a

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Execution Date

Transferor(s) Signature(s)

Eric A. Kerr

Barrister & Solicitor

204 - 655 Tyee Road

Victoria, BC V9A 6X5

Y	M	D
15	05	28

WHITNEY HERRICK DAVIS

BLAIR ALLAN HOCHHALTER

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

1 Centennial Square
Victoria, BC V8W 1P6

Execution Date

Y	M	D
15	06	01

Mayor Lisa Helps

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Thevarajah Rabimohan

Notary Public

The Royal Trust Company
10 York Mills Road
Toronto, Ontario M2P 0A2

Y	M	D
15	05	27

ROYAL BANK OF CANADA
by its authorized signatory(ies):

Sabrina Curtis

Orrie Sobers

(as to both signatures)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

LAND TITLE ACT
FORM E

SCHEDULE

PAGE 4 OF 11 PAGES

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Statutory Right of Way		over part on plan EPP44933

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		Granting the Statutory Right of Way herein priority over Mortgage No. CA1978465 (as modified by CA2301814)

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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Statutory Right of Way - Highway

TERMS OF INSTRUMENT - PART 2

WHEREAS:

A. The Transferor is the registered owner in fee simple of the following land in the Province of British Columbia:

PID: 007-410-573

Lot 9, Fairfield Farm Estate, Victoria City, Plan 1440

(the "**Lands**")

B. The Transferee is the Corporation of the City of Victoria;

C. This Right of Way is necessary for the operation and maintenance of the Transferee's undertaking as described in Recital D;

D. The Transferee wishes to be able to construct, operate and maintain a public highway and other works including but not limited to a system of roadways, sidewalks and utility services in perpetuity over a portion of the Lands; and

E. To facilitate the construction and use by the Transferee and the public of a public highway, and to facilitate the installation and use of works that may be placed by the Transferee on, under or over the highway including pavements, sidewalks, boulevards, curbs, gutters, drains, sewers, utility poles, wires, fences, overhead and underground cables, traffic signals, transit shelters, and landscaping including but not limited to trees, shrubs, flowers and grass, and irrigation works required for the maintenance of that landscaping, and any other works, facilities or appurtenants necessary for the use of the Right of Way as a public highway (collectively the "**Works**"), the Transferor has agreed to grant the Right of Way in this Agreement.

NOW THEREFORE, in consideration of the sum of One (\$1.00) Dollar of lawful money of Canada, now paid by the Transferee to the Transferor (the receipt and sufficiency of which is now acknowledged by the Transferor), and in consideration of the covenants and conditions agreed to be observed and performed by the parties and for other valuable consideration:

1.0 THE TRANSFEROR:

1.1 Pursuant to Section 218 of the Land Title Act, hereby grants, conveys, confirms

and transfers, in perpetuity, to the Transferee, its officers, employees, contractors, licensees and invitees, including without limitation the general public, the full, free and uninterrupted right, licence, liberty, privilege, permission and right of way to use as a public highway, including but not limited to the right to enter onto, use, go, return, pass over and across for highway purposes, that portion of the Lands, shown in heavy outline on the Explanatory Plan prepared by Wey Mayenburg Land Surveying Inc. and filed in the Victoria Land Title Office under Plan No. EPP44933, a reduced copy of which is attached hereto as Schedule "A" (the **"Right of Way"**);

1.2 Covenants and agrees to and with the Transferee that in connection with the grant under Section 1.1 of this Agreement, the Transferee and its officers, employees, contractors, licensees and invitees shall have the full, free and uninterrupted right, licence, liberty, privilege, permission and right of way to lay down, install, construct, entrench, operate, maintain, inspect, alter, repair, remove, replace, bury, cleanse, string, and otherwise establish one or more system of Works upon the Right of Way;

1.3 Covenants and agrees to and with the Transferee that the Transferee shall:

- (a) for itself and its agents, workers, contractors and all other licensees of the Transferee;
- (b) together with machinery, vehicles, equipment, and materials;
- (c) upon, over, under and across the Right of Way;
- (d) as may be necessary, useful, or convenient for the purposes in Section 1.1 and Section 1.2; and
- (e) in connection with the operations of the Transferee in relation to the Works;

be entitled at all times to enter, use, pass and repass, labour, construct, erect, install, dig, carry away soil or other surface or subsurface materials, and clear of all trees, growth, buildings or obstructions now or hereafter in existence upon, over, under and across the Right of Way;

1.4 Grants, conveys, confirms and transfers unto the Transferee for itself, and its employees, agents, workers, contractors and all other licensees of the Transferee together with machinery, vehicles, equipment and materials, the right at all times to enter upon and to pass and repass over such of the Lands of the Transferor as may reasonably be required for the purpose of ingress to and egress from the Right of Way;

1.5 Transfers, assigns and conveys to the Transferee all right, title and interest in and to any Works that the Transferee, or the Transferor have prior to this Agreement established or constructed or maintained or operated within the Right of Way or in

relation to any similar Works previously constructed by any party whatsoever within the Right of Way.

2.0 THE TRANSFEROR COVENANTS:

2.1 Not, and not to permit or allow any other person, to erect, place, install or maintain any building, structure, addition to a building or structure, mobile home, paved driveway or patio, pipe, wire or other conduit on, over or under any portion of the Right of Way;

2.2 Not to do anything or to permit any act or thing which in the opinion of the Transferee in any way interferes with or damages or prevents access to or use of the Right of Way or is likely to cause harm to the Works installed in or upon the Right of Way;

2.3 To trim or, if the Transferee determines it is necessary, cut down any tree or other growth on the Lands which in the opinion of the Transferee, constitutes or may constitute a danger or obstruction to the Right of Way or the Works or those using same;

2.4 From time to time and at all times at the reasonable request and at the cost of the Transferee to do and execute or cause to be made, done or executed any further and other lawful acts, deeds, things, devices, conveyances and assurances in law required to ensure the Transferee of its rights under this Agreement; and

2.5 To permit the Transferee to peaceably hold and enjoy the rights hereby granted.

3.0 THE TRANSFEE COVENANTS:

3.1 As far as reasonably possible, to carry out all work in a proper and workmanlike manner so as to do as little injury to the Lands as possible; and

3.2 To make good at its own expense damage or disturbance which may be caused to the Lands in the exercise by the Transferee of its rights under this Agreement except as permitted under this Agreement.

4.0 THE PARTIES COVENANT TO AND AGREE WITH EACH OTHER, as follows:

4.1 The Transferor shall not diminish or increase the soil cover over any pipe installed in the Right of Way without the Transferee's prior written consent;

4.2 No right herein granted to or reserved by the Transferee shall require the Transferee to clear, repair or maintain the Works or the Right of Way unless the Transferee is expressly required herein to perform such cleaning, repairing or maintenance;

4.3 If the Transferor defaults in observance or performance of its obligations hereunder, the Transferee, after 10 days prior written notice to the Transferor specifying the default and at any time in case of emergency, may (but is not obligated to) rectify the default, and the Transferor shall pay to the Transferee, on demand, its reasonable costs in connection with so rectifying;

4.4 The Transferor shall, after execution hereof by it at the expense of the Transferor, do or cause to be done all acts necessary to grant priority to this Agreement over all financial charges and encumbrances which are registered, or pending registration, against the Title to the Lands in the Land Title Office save and except those as have been specifically approved in writing by the Transferee or have been granted in favour of the Transferee;

4.5 Waiver of any default by either party shall not be deemed to be a waiver of any subsequent default by that party;

4.6 Whenever this Agreement creates a power or obligation of the Transferee to make a decision or to exercise any contractual right or remedy, the Transferee may do so in accordance with the provisions of this Agreement and no public law duty, whether arising from the principals of fairness or the rules of natural justice, shall have any application;

4.7 Notwithstanding anything herein contained, the Transferee reserves all rights and powers of expropriation otherwise enjoyed by the Transferee;

4.8 Without limiting Section 4.7, nothing contained or implied in this Agreement will derogate from the obligations of the Transferor under any other agreement with the Transferee or prejudice or affect the Transferee's rights, powers, duties or obligations in the exercise of its functions under all public and private statutes, by-laws, orders and regulations, which may be as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by Transferor and the Transferee;

4.9 In spite of any rule of law or equity to the contrary, the Works brought on to, set, constructed, laid, erected in, upon or under the Right of Way by the Transferee shall at all times remain the property of the Transferee, even if the Works are annexed or affixed to the freehold, and the Works shall at any time and from time to time be removable in whole or in part by the Transferee;

4.10 No part of the title in fee simple to the Lands of the Transferor shall pass to or be vested in the Transferee under or by virtue of this Agreement, and the Transferor may fully use and enjoy all of the Lands of the Transferor subject only to the rights and restrictions in this Agreement;

4.11 If any section, subsection, sentence, clause or phrase in this Agreement is for

any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of the Agreement;

4.12 This Agreement shall attach to and run with the Lands and each and every part to which the Lands may be divided or subdivided whether by subdivision plan, strata plan or otherwise howsoever;

4.13 The Transferor acknowledges that (a) these Covenants are enforceable against the Transferor and his successors in title, but (b) the Transferor is not personally liable for breach of these Covenants where such liability arises by reason of an act or omission occurring after the Transferor named herein or any future owner ceases to have a further interest in the Lands;

4.14 If at the date hereof the Transferor is not the sole registered owner of the Lands of the Transferor, this Agreement shall nevertheless bind the Transferor to the full extent of his interest therein, and if he acquires a greater or the entire interest in fee simple, this Agreement shall likewise extend to such after-acquired interests;

4.15 Where the expression "Transferor" includes more than one person, all covenants made by the Transferor shall be construed as being several as well as joint with respect to all persons constituting the Transferor;

4.16 This Agreement shall continue to benefit and be binding upon the Transferor and Transferee, and their respective heirs, administrators, executors, successors and permitted assigns, as the case may be;

4.17 Gender specific terms include both genders and corporations, and the singular and plural forms are interchangeable, according to the context; and

4.18 This Agreement will be governed and construed according to the laws of the Province of British Columbia.

4.19 Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the Transferee in the exercise of its functions under any public or private statutes, bylaws, order and regulations, all of which may be fully and effectively exercised in relation to the Land as if this Agreement had not been executed and delivered by the parties.

4.20 PRIORITY AGREEMENT

Royal Bank of Canada, as the registered holder of a charge by way of a mortgage against the within described property, which said charge is registered in the Land Title Office at Victoria, British Columbia, under number CA1978465 (as modified by CA2301814), for and in consideration of the sum of One Dollar (\$1.00) paid by the Transferee to the said Chargeholder (the receipt whereof is hereby acknowledged), agrees with the Transferee, its successors and assigns, that the within Right of Way shall be an encumbrance upon the within described property in priority to the said charge in the same manner and to the same effect as if it had been dated and registered prior to the said charge.

The parties hereto acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D attached hereto.

Schedule "A"

**Explanatory Plan Over Part Of
Lot 9, Fairfield Farm Estate,
Victoria City, Plan 1440.**

Pursuant to Section 99(1)(e) of the Land Title Act.
For Statutory Right of Way purposes.
BCGS 92B 044

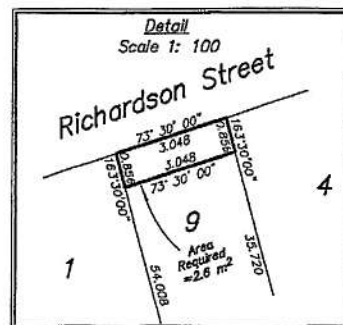


The intended plot size of this plan is 432mm
in height by 280mm in width (B size) when
plotted at a scale of 1:250.

Distances are in metres unless otherwise indicated.

Integrated Survey Area No. 17, The Corporation of
the City of Victoria, NAD83 (CSRS) 3.0.0.BC.1.CRD.

Astronomic Bearings are derived from Plan 1440.

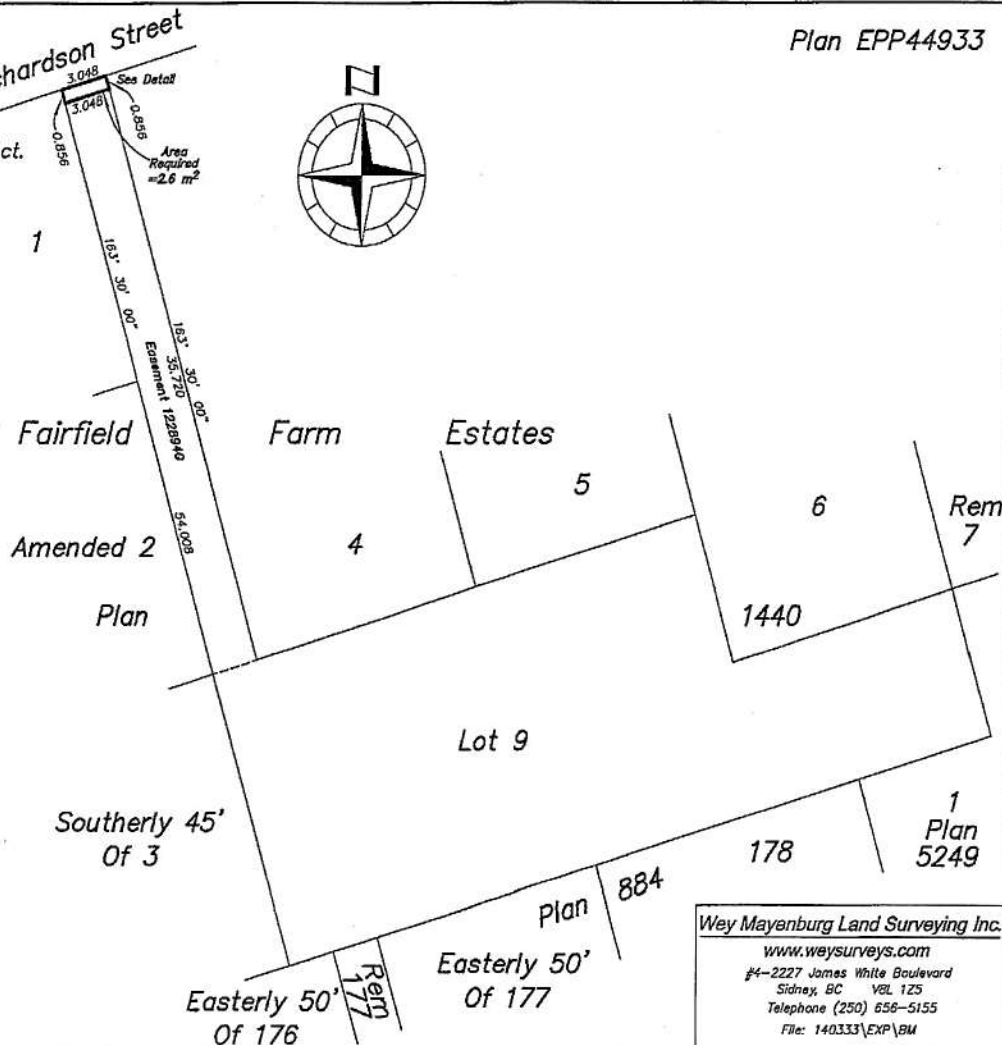


This plan lies within the
Capital Regional District.

This plan is based on the Land Title and
Survey Authority of BC records: Plan 1440

Brent W. Mayenburg, BCLS 910
11th day of November, 2014.

Richardson Street



Plan EPP44933

Wey Mayenburg Land Surveying Inc.

www.weysurveys.com

#4-2227 James White Boulevard

Sidney, BC V8L 1Z5

Telephone (250) 658-5155

File: 140333\EXP\BM