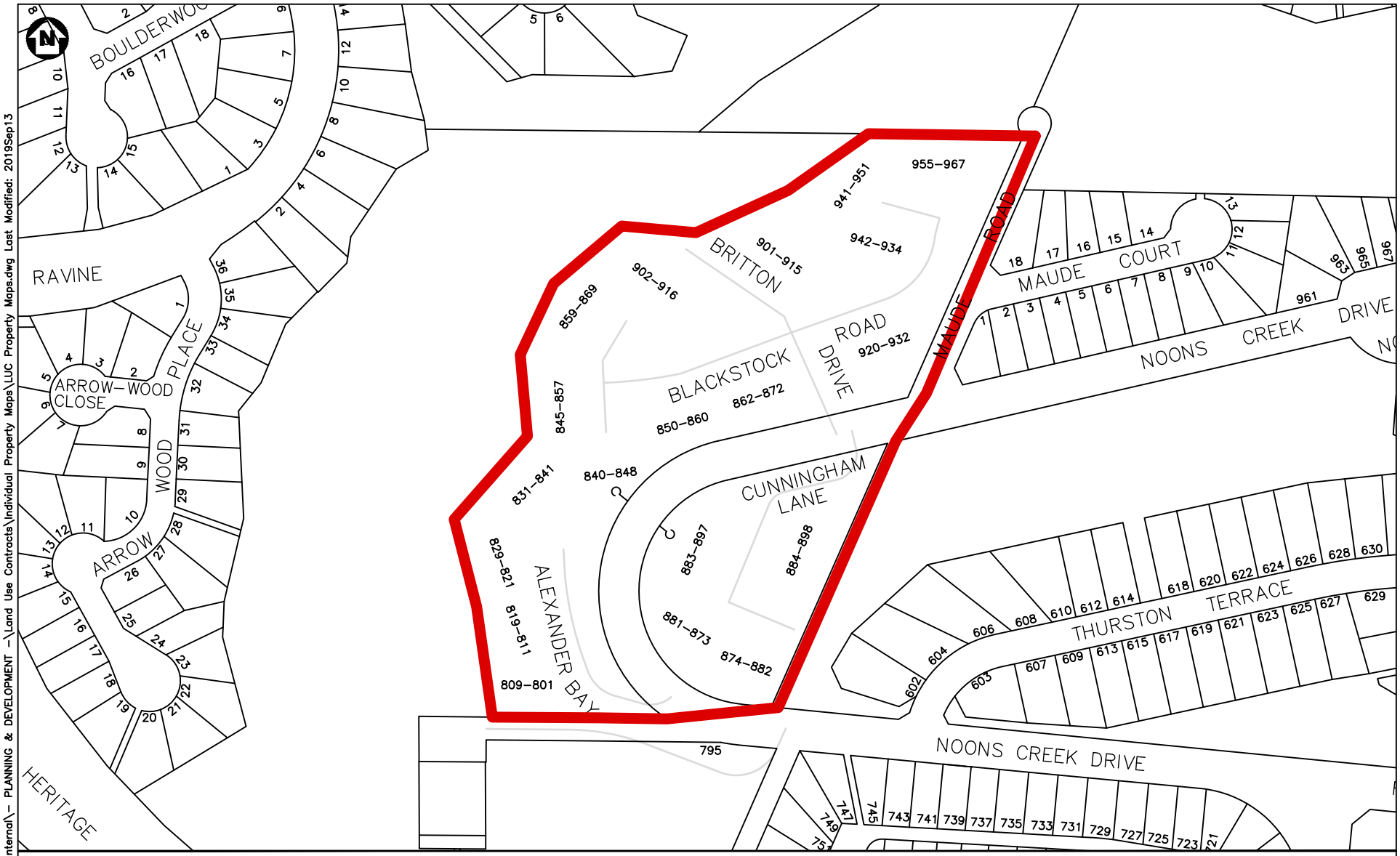

City of Port Moody - Land Use Contract

840-872 & 920-967 Blackstock Road, 873-898 Cunningham Lane, 801-841 Alexander Bay, 901-916 Britton Drive

Zoning: RM3

0m 50 100

SUBJECT PROPERTIES

File: M:\Mapping Requests - Internal\- PLANNING & DEVELOPMENT -\Land Use Contracts\Individual Property Maps\LUC Property Maps.dwg Last Modified: 2019Sep13

L.R.O. FILING NO. M-79733
August 27, 1976.

CITY OF PORT MOODY

BY-LAW NO. 1299

A BY-LAW OF THE CITY OF PORT MOODY TO APPROVE A LAND USE CONTRACT.

WHEREAS by By-law No. 1289 of the City of Port Moody, dated the 7th day of June, 1976, the area of lands described as:

Lot 62, District Lot 347, Group 1,
Plan 50025, New Westminster District,

was designated as a Development Area within the meaning of Section 702 and 702A of the "Municipal Act", and pursuant to the provisions of the said Act;

AND WHEREAS by By-law No. 1289 of the City of Port Moody, dated the 7th day of June, 1976, the City was authorized to enter into a Land Use Contract with the Owner for the use and development of the said Development Area, pursuant to the provisions of the "Municipal Act";

AND WHEREAS notice of the Public Hearing to be held by the Council of the City of Port Moody, in the Town Centre Cultural Centre, 300 loco Road, Port Moody, B. C., on Tuesday, July 6, 1976, at the hour of 7:30 p.m., was published in the issues of the "Columbian" Newspaper dated Tuesday, June 29, 1976, and Wednesday, June 30, 1976;

AND WHEREAS the said Public Hearing was held at the time and place above-mentioned;

NOW THEREFORE the Municipal Council of the City of Port Moody in open session assembled enacts as follows:

1. TITLE

This By-law may be cited for all purposes as "City of Port Moody Land Use Contract No. 3 Authorization By-law 1976, No. 1299".

2. APPROVAL OF CONTRACT

The Land Use Contract attached hereto and marked "Schedule A" is hereby adopted by the Council of the City of Port Moody.

READ A FIRST TIME this 26th day of JULY, 1976.

READ A SECOND TIME this 26th day of JULY, 1976.

READ A THIRD TIME this 3rd day of AUGUST, 1976.

RECONSIDERED AND FINALLY ADOPTED this 9th day of AUGUST, 1976.

Mayor

Municipal Clerk

I HEREBY CERTIFY that the above is a true copy of By-law No. 1299 of the City of Port Moody.

Municipal Clerk

L.R.O. FILING NO. M-79734
August 27, 1976.

SCHEDULE "A"
Attached to By-law No.1299

LAND USE CONTRACT NO. 3 24th day of AUGUST, 1976.

BETWEEN: THE CORPORATION OF THE CITY OF PORT MOODY, a Municipal Corporation having its Municipal Offices at 2425 St. John's Street in the City of Port Moody, in the Province of British Columbia;

(Hereinafter called the "City")

OF THE FIRST PART

AND: HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, Parliament Buildings, Victoria, B. C. (Represented by the Minister of Housing for the Province of B. C.);

(Hereinafter called the "Owner")

OF THE SECOND PART.

WHEREAS upon the application of an owner of land within a development area, the Council of a Municipality, pursuant to Section 702A of the Municipal Act, may by by-law notwithstanding any by-law of the Municipality, or Sections 712 or 713 of the Municipal Act, enter into a Land Use Contract containing such terms and conditions for the use and development of land as may be agreed upon with an owner, and thereafter the use and development of the land shall be in accordance with the land use contract;

AND WHEREAS the Municipal Act requires that the Municipal Council consider the criteria set out in Sections 702(2) and 702(1) in arriving at the terms, conditions and considerations contained in a land use contract;

AND WHEREAS the Owner has presented to the Municipality a scheme of use and development of the within described lands and premises that would be in contravention of a by-law of the Municipality or Sections 712 or 713 of the Municipal Act or both, and has requested that the Council of the Municipality enter into this contract under the terms, conditions, and for the consideration hereinafter set forth;

AND WHEREAS by By-law No. 1289 of the said City, dated the 7th day of June, 1976, the area of lands described as:

Lot 62, District Lot 347, Group 1, Plan 50025, New Westminster District;

was designated as a Development Area within the meaning of Sections 702 and 702A of the Municipal Act and pursuant to the provisions of the said Act;

AND WHEREAS by By-law No. 1289 of the said City dated the 7th day of June, 1976, the City was authorized to enter into this Land Use Contract with the Owner for the use and development of the said Development Area, in accordance with the terms and conditions hereinafter contained and pursuant to the provisions of the Municipal Act;

AND WHEREAS notice of a Public Hearing, to be held by the Council of the City of Port Moody, in the Social Room of the Town Centre Cultural Building, Port Moody, B. C., on Tuesday, July 6, 1976, at the hour of 7:30 p.m., was published in the issues of the "Columbian" newspaper, dated Tuesday, June 29, 1976, and Wednesday, June 30, 1976;

AND WHEREAS the said Public Hearing was duly held at the time and place above-mentioned;

NOW THEREFORE this Agreement witnesseth that in consideration of the premises and conditions on covenants hereinafter set forth, the City and the Owner covenant and agree as follows:

1. The Owner is the registered owner of an estate in fee simple of all and singular that certain parcel of land and premises situate, lying and being in the City of Port Moody, in the Province of British Columbia, more particularly known and described as:

   Lot 62, District Lot 347, Group 1, Plan 50025,
   New Westminster District;

2. The Owner has obtained the consent of all persons having a registered interest in the lands to the use and development set forth herein.

3. The following maps, plans and schedules, marked as Schedule "A" are attached to form part of this Contract;

   (a)

Drawing No.	Description
PD - 01	Preliminary Unit Layout Subdivision Plan
PD - 02	Plot Plan
PD - 03	Site Section Elevation Sketches
PD - 04	Ground Floor Plan - Types A, B & C
PD - 05	Upper Floor Plan - Types A, B & C
PD - 06	Unit Layout Section Elevations
PD - 07	Landscape Plans
PG - 01	Playground Equipment
PG - 02	Fence Detail - Noons Creek

   (b)

Schedule No.	
A - 1	Exterior Finishes

4. The following terms and conditions shall apply to the said Development Area:

   (a) Registration of Title

   All buildings, structures and lands shall be registered under a Strata Plan in conformance with the "Strata Titles Act", being Chapter 14 of the revised Statutes of British Columbia.

   (b) Permitted Uses of Land, Building and Structures

   The following uses and no others shall be permitted:

   Nineteen principal buildings, as shown on Drawing No. PD-01, for residential use, with accessory off-street parking use.

   (c) Size, Shape and Siting of Buildings and Structures

   All buildings and structures to be constructed on the said land shall conform to:

   Drawing Nos. PD-02 to PD-06 inclusive, and PG-02,

   with respect to the size, shape and siting of buildings and structures.

4. (d) Notwithstanding the plans attached hereto, all buildings and structures on the lands shall conform to the provisions of the National Building Code and to all pertinent Fire Prevention Laws and Regulations, and reasonable access for fire fighting purposes shall be provided to all buildings.

(e) Off-Street Parking

Shall be located in conformity with site plan, Drawing PD-02

240 Uncovered Parking Spaces

and shall be constructed in accordance with the provisions of the City of Port Moody Zoning By-law, 1974, No. 1204, with respect to their size, shape and finish.

(f) Aesthetic Quality of Buildings and Structures

Exterior finishes shall be as shown and described on Drawing Nos. PD-03 and PD-06, and as detailed in Schedule A-1.

(g) Development and Landscaping of Site

Landscaping and grading details shall be constructed in conformity with Drawing No. PD-07 and PG-02, and shall be carried out and completed in accordance with the standard and requirements of the Parks & Recreation Director, and maintained in perpetuity in a manner satisfactory to the Parks & Recreation Director.

Should the Owner fail to keep and maintain the said landscaping to the satisfaction of the Parks and Recreation Director, the City may at its discretion, order its workmen and/or others to enter and effect such maintenance at the expense of the persons so defaulting, and may further order that the charges for so doing, if unpaid by December 31st of the year of default, shall be added to, and form part of the taxes payable in respect of these lands or real property taxes as taxes in arrears.

(h) Development and Landscaping of Playground Area

Construction of Playground Areas shall be constructed in conformity with Drawing Nos. PD-01, PD-07 and PG-01.

(i) Maintenance of Buildings and Structures

General maintenance of all buildings and structures shall be carried out under a regular programme to assure a continuing pleasing aesthetic appearance, and to provide for the safety of residents in a manner satisfactory to the City Building Inspector.

Should the Owner fail to maintain the said buildings and structures to the satisfaction of the City Building Inspector, the City may, at its discretion, order its workmen and/or others to enter and effect such maintenance at the expense of the persons so defaulting and may further order that the charges for so doing, if unpaid by December 31st of the year of default, shall be added to and form part of the taxes payable in respect of these lands or real property taxes, as taxes in arrears.

4. (j) Municipal Services, Works and Utilities, General

All utilities, including Water, Sanitary Sewer, Storm Sewer, and Domestic Gas, shall be placed underground and provided in accordance, at locations shown on Drawings submitted to and approved by the City Engineer prior to construction, and constructed in accordance with the requirements contained in By-laws provided for such installation.

Telephone, Electrical and Cablevision services shall be provided underground, and placed in such a manner to connect to existing services, as provided by B. C. Hydro and B. C. Telephone, and constructed in accordance with regulations provided for such installations.

All on-site roadways and walkways including drainage, perimeter drainage, surfacing, curbs, gutters, street lighting, boulevards, emergency access and street signs, shall be provided, located, constructed and maintained by the Owner, and where applicable in substantial compliance with Plan PD-03 attached hereto.

The Owner, from time to time, shall be solely responsible for the operation, upkeep and maintenance of all on-site works and services including roads, water, drainage, snow removal, sanitary and storm sewers, gas, electricity and telephone systems.

It is understood and agreed that the intent of this Land Use Contract is that the Owner shall construct fully completed works and services, as described in items (j) and (k), where applicable, and which in the discretion of the City Engineer may be varied because of conditions at the site so that the works function and operate in a manner satisfactory to the City Engineer and should the works provided to be constructed herein prove to be in any way defective, or should they not operate to the satisfaction of the City Engineer prior to completion, then the Owner shall, at his own expense, modify and reconstruct the said works so that the said works shall be fully operative and function to the satisfaction of the City Engineer.

The City agrees that all off-site services shall be provided by the City at its expense, except as otherwise provided herein.

The off-site services shall include the following:

(k) Municipal Services, Works & Utilities - Detailed

(i) Roads

Noon's Creek Drive shall be constructed in its entirety by the City of Port Moody.

Construction of Noon's Creek Drive services shall commence in August 1976, or as soon thereafter as is possible, and shall be substantially complete by January 1977.

Upon request of the Owner, the portion of Noon's Creek Drive, which bisects the property described in Item 1 above, will be constructed separately by the City.

The Owner shall not be responsible for any additional cost incurred on this account.

4. (k) (ii) Storm Sewer

Construction of the Storm Sewer in the existing Maude Road right-of-way, which is proposed to service this site to the intersection of Maude Road and Noon's Creek Drive, shall commence in August 1976 or as soon thereafter as possible, and shall be constructed in its entirety by the City.

(iii) Water Supply

The permanent water supply will be provided by the proposed watermain to be constructed by the City within Noon's Creek Drive right-of-way. This supply system is tentatively scheduled for connection to the G.V.W.D. trunk watermain by December 1976.

In the event that a permanent water connection to the G.V.W.D. trunk watermain is not realized by January 1, 1977, the City will provide adequate temporary water supply to the approved on-site water system from the existing watermain on Maude Road, with all costs to be borne by the Owner.

(iv) Sanitary Sewer

In the event the sanitary sewer to be constructed within the Noon's Creek Drive right-of-way, is not operating by January 1977, the City will approve a temporary sanitary sewer connection to the existing sewer system on Maude Road.

(v) Roadworks

In the event a temporary paved access is required to allow occupancy of the development on substantial completion, the gravelled portions of Maude Road will be paved by the Owner at his expense with standards to a temporary access road and to the approval of the Municipal Engineer.

(vi) B.C. Hydro and B.C. Telephone

Permanent underground power and telephone will not be available to the development area until late 1977. B.C. Hydro and B.C. Telephone have agreed to install additional overhead service on Maude Road to adequately serve this development. The overhead will be placed underground on Noon's Creek Drive right-of-way.

(l) Signs

Signs shall only be permitted in accordance with Section 402(2)(d) of the City of Port Moody Zoning By-law, 1974, No. 1204.

(m) Construction Vehicles Traffic Control

The Owner shall provide adequate supervision over all commercial vehicles and construction equipment entering upon or leaving the construction site to provide for the safety of pedestrians or others during working hours.

4. (n) Inspections

The City may, at all reasonable times, enter upon the lands and carry out all necessary inspections to ensure that the land is used and developed in accordance with the terms and provisions of this agreement.

Such roadways and walkways, as shall be provided, shall be open for use by Federal, Provincial and Municipal agencies at all reasonable times during the course of their duties, including Police, Ambulance, Municipal Crews and Fire Department.

(o) Amendments

This Land Use Contract may be amended for minor alterations to plans and specifications by mutual written agreement of both parties.

5. Covenants of the Owner and Security for Due Performance

(a) The Owner covenants and agrees that he will commence construction in conformity with the terms and conditions of this Land Use Contract within the period of three months from the date of its execution, and shall complete all such works undertaken within a period of eighteen months from commencement of construction, subject to those items listed in Section 4(k).

(b) Prior to construction, the Owner will deliver to the City a copy of the following:

(i) Evidence of Treasury Board approval.

(ii) Letter from the Deputy Minister of Housing agreeing to the undertaking of the development on behalf of the Department of Housing of British Columbia.

(c) The Owner further covenants and agrees that he shall not, during construction, nor after completion, remove or deliberately injure any trees that are shown as existing or placed on Drawing No.PD-07, nor shall be altered any finished gradients, as shown on Drawing No.PD-03, without prior written consent of the City.

(d) And the Owner further covenants and agrees with the City that it will reimburse the City for all legal fees and costs incurred by the City in drawing up and executing this Contract.

(e) This Contract shall inure to the benefit of and be binding upon the Owner, his successors and assignees, and upon the City, its successors and assignees. This Contract shall not be assigned to any third party, other than a Crown Agency, for the purposes of construction, prior to its completion, without prior written consent of the City.

(f) The Owner covenants to save harmless and effectually indemnify the Municipality against:

(i) All actions and proceedings costs, damages, expenses, claims and demands whatsoever and by whomsoever brought by reason of the construction of the said works.

5. (g) (ii) All expenses and costs which may be incurred by reason of the execution of the said works, resulting in damage to any property owned in whole or in part by the Municipality by duty or custom is obliged, directly or indirectly, in any way or to any degree, to construct, repair or maintain.

(iii) All expenses and costs which may be incurred by reason of liens for non-payment of labour or materials, Workers' Compensation assessments, Unemployment Insurance, Federal or Provincial Tax, check-off and for encroachments owing to mistakes in survey.

(h) The Owner further covenants and agrees to accept his share of pro rata major shared services, as per an agreement between the City and the Province of British Columbia.

(i) This Contract shall have the force and effect of a restrictive covenant running with the land, and shall be registered in the Land Registry Office by the City of Port Moody.

6. Covenants of the City

The Municipality hereby covenants and agrees with the Owner to permit the Owner to perform all the said work upon the terms and conditions herein contained.

7. In the interpretation of this Land Use Contract, all definitions of words and phrases contained in the City of Port Moody Zoning By-law 1974, No. 1204, shall apply to this Land Use Contract and to the attachments hereto.

8. It is understood and agreed that the Municipality has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with the Owner, other than those in this Contract.

9. Effective Date

The Land Use Contract shall come into force and have effect on and from and only on and from the day when it shall have been registered in the Land Registry Office pursuant to Subsection (4) of Section 702A of the Municipal Act, as a first charge against the said lands having priority over any and all other restrictive covenants and any and all liens, entries, judgements, mortgages, agreements, leases or other encumbrances of whatsoever kind and description.

A By-law to enter into this Land Use Contract was adopted by Council of the City under By-law No. 1299 on the 9th day of August, 19 76.

IN WITNESS WHEREOF the said parties to this Agreement have hereunto set their hands and seals the day and year first above written.

SIGNED, SEALED AND DELIVERED)
The Corporate Seal of)
THE CITY OF PORT MOODY was)
hereunto affixed in the)
presence of)
)
)
Mayor)
)
Clerk)

SIGNED, SEALED AND DELIVERED)
by the Minister of Housing for)
and on behalf of Her Majesty)
the Queen in the Right of the)
Province of British Columbia)
in the presence of)
)
)
)
)

NOTE:

Original signatures in Land Use Contract file - General Office.