



PH-1

Public Hearing Information Package

January 29, 2018 at 7:00 pm

Sooke Council Chamber
2225 Otter Point Road, Sooke, BC

2298 Phillips Road

Proposed Bylaw:	Bylaw No. 688, <i>Zoning Amendment Bylaw (600-49)</i>
Zoning Amendment:	The purpose of Bylaw No. 688, <i>Zoning Amendment Bylaw (600-49)</i> is to rezone 2298 Phillips Road from Rural (RU2) to Medium Lot Residential (R2).

Information Package Contents	Page #
1. Notice of Public Hearing published in the Sooke News Mirror January 17, 2018 and January 24, 2018.	1
2. Bylaw No. 688, <i>Zoning Amendment Bylaw (600-49)</i> , at second reading.	3
3. Staff Report to Council, dated January 15, 2018. <ul style="list-style-type: none">o Report covero Subject property mapo Summary of referral commentso OCP policy contexto Map of proposed park dedicationo Concept plano Bylaw No. 688 (600-49)o Draft covenant parkingo Draft covenant geotech, RAR, park dedicationo Draft covenant affordable housing	5
4. Council resolution, dated January 15, 2018.	35

*Please note that written and verbal submissions will
become part of the public record.*

NOTICE OF PUBLIC HEARING

The Council of the District of Sooke will hold a Public Hearing pursuant to the provisions of the *Local Government Act* in the Council Chambers at 2225 Otter Point Road, Sooke, BC on **Monday, January 29, 2018** commencing at 7:00 pm.

Application Information:

Bylaw: Bylaw No. 688, *Zoning Amendment Bylaw (600-49)*
File No: PLN01341
Civic Address: 2298 Phillips Road (shown outlined in black and hatched on the subject map)
Legal Description: Lot 1, District Lot 27, Sooke District, Plan VIP69505, Except Part in Plan VIP75446
Applicant: John Kelly

Proposal:

The purpose of Bylaw No. 688, *Zoning Amendment Bylaw (600-49)* is to rezone 2298 Phillips Road from "Rural (RU2)" to "Medium Lot Residential (R2)" with the intent of subdividing the property to create up to 15 single family lots. The R2 zone permits a minimum lot size of 600 square meters for subdivision. Secondary suites are a permitted use in the R2 zone.



Further Information:

Copies of the bylaw(s), supporting written reports and any relevant background documentation may be viewed in the "Public Notices" section of the District of Sooke website www.sooke.ca or inspected at the District Municipal Offices at 2205 Otter Point Road, Sooke, BC, between the hours of 8:30 am and 4:30 pm, Monday to Friday (excluding statutory holidays) **commencing January 17, 2018 to and including January 29, 2018.**

Public Input:

All persons who believe their interests in property are affected by the proposed bylaw(s) will be afforded an opportunity to be heard at the Public Hearing on the matters contained in the proposed bylaw(s). Should you have any concerns or comments you wish to convey to Council, please submit in writing by fax to 250-642-0541, email publichearing@sooke.ca or in person to the Corporate Officer at the District Municipal Offices no later than **Monday, January 29, 2018 at 12:00 pm**. Please be advised that submissions to Council will become part of the public record and are subject to disclosure under the *Freedom of Information and Protection of Privacy Act (FOIPPA)*

NOTE: Council cannot receive further information concerning this application after the Public Hearing has concluded.



DISTRICT OF SOOKE ZONING AMENDMENT BYLAW NO. 688

A bylaw to amend Bylaw No. 600, *Sooke Zoning Bylaw, 2013* for the purpose of amending the zoning on the property known as 2298 Phillips Road from Rural (RU2) to Medium Lot Residential (R2).

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This bylaw is cited as *Zoning Amendment Bylaw No. 688, (600-49), 2017*.
2. The parcel of land legally described as Lot 1, District Lot 27, Sooke District, Plan VIP69505 Except Part in Plan VIP75446 as shown boldly outlined and hatched on **Schedule A**, which is affixed to and forms part of this bylaw, is hereby rezoned from from Rural (RU2) to Medium Lot Residential (R2).
3. Bylaw No. 600, Sooke Zoning Bylaw, 2013, as amended, and **Schedule A** attached thereto, are amended accordingly.

READ a FIRST and SECOND time the 15 day of January, 2018.

PUBLIC HEARING held the ___day of ____, 201 .

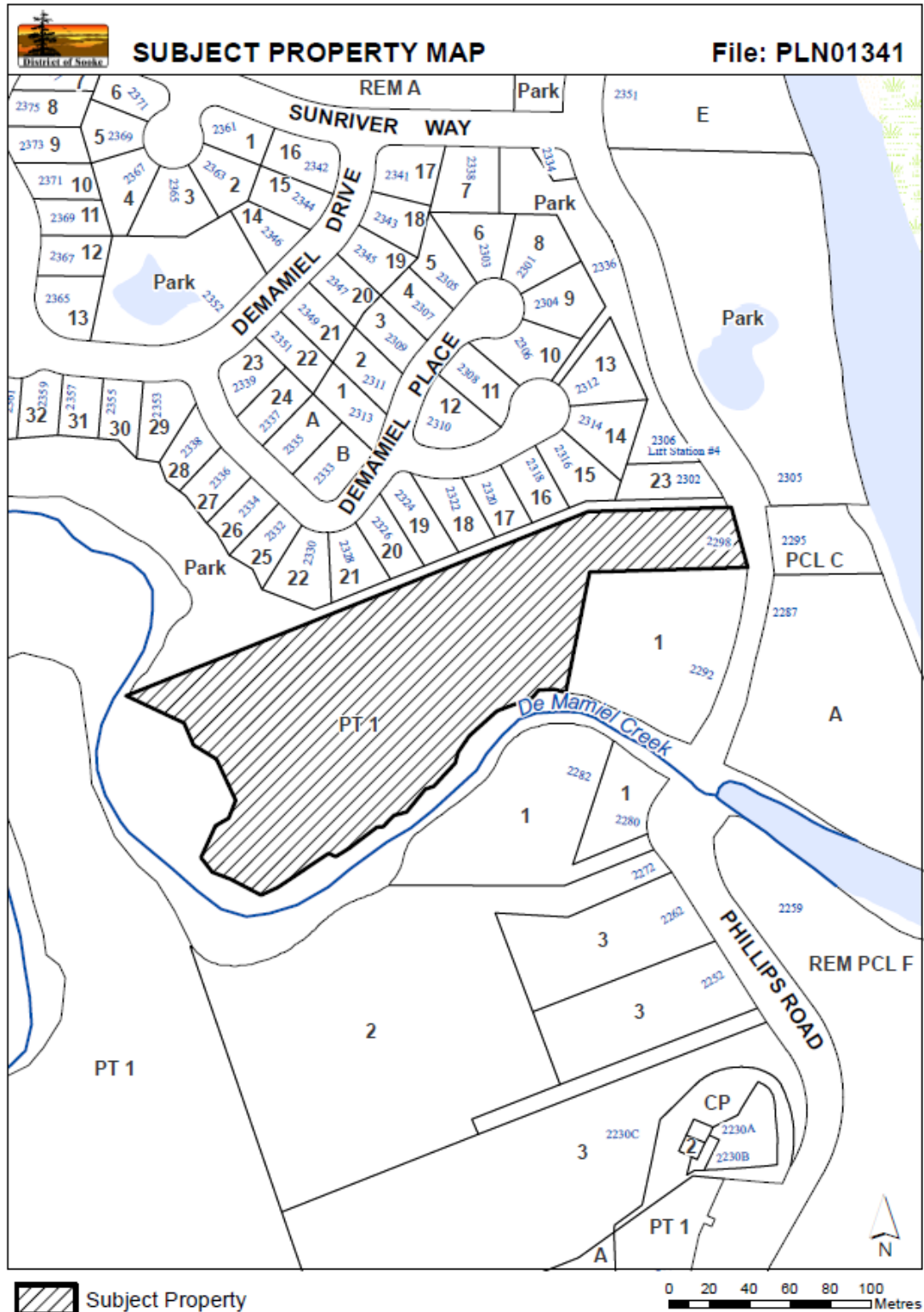
READ a THIRD time the ___day of ____, 201 .

ADOPTED the ___day of ____, 201 .

Maja Tait
Mayor

Carolyn Mushata
Corporate Officer

SCHEDULE A





2298 Phillips Road - Rezoning Application

RECOMMENDATION:

THAT Council give First and Second reading to *Zoning Amendment Bylaw No. 688 (600-49)* to rezone 2298 Phillips Road from Rural (RU2) to Medium Lot Residential (R2);

AND THAT a Public Hearing be scheduled for *Zoning Amendment Bylaw No. 688 (600-49)* in accordance with Section 466 of the *Local Government Act*;

AND THAT prior to final adoption of *Zoning Amendment Bylaw No. 678 (600-41)*, the owner enter into section 219 covenants to address the following:

1. Secure thirteen (13) additional parking spaces within the development and require design standards for suite parking on lots;
2. Secure provision of a \$5,000.00 cash contribution to Bylaw No. 259, *Housing Reserve Fund Establishment Bylaw, 2006*;
3. Accept the area noted on Map "A - Proposed Park" to be given as parkland dedication at time of subdivision; and
4. Require a Geotechnical Report to be submitted by the owner prior to development permit or subdivision, whichever comes first

Report Summary:

The District of Sooke has received an application to amend the zoning on 2298 Phillips Road from Rural (RU2) to Medium Lot Residential (R2) to allow for a future subdivision to create an estimated 15 lots. The applicant has also applied to include the property into the Sewer Specified Area.

To meet policies in the Official Community Plan, staff recommend that prior to final adoption of the rezoning, the owner enter into a section 219 covenant with the District of Sooke to secure: additional parking within the development, a \$5,000.00 cash contribution to Sooke's Affordable Housing Reserve Fund, a Geotechnical Report and Parkland dedication. The draft covenants have been discussed with the applicant and both parties are in agreement with the contents.

Previous Council Action:

An application to rezone the property to a multi-family zone to permit a 34 unit townhouse project was applied for in 2004 and was denied by Council on December 13, 2004.

Report:

The 2.2ha (5.4 acres) lot is situated along the northern bank of De Mamiel Creek with the upper parts of the property consisting of steep slopes. There is a strip of Park (approximately 5m wide) called the De Mamiel Creek/Phillips Connector, approximately 300m in length, connecting De Mamiel Creek Park to Phillips Road that abuts the northern boundary of the property. This strip of park provides a buffer between the proposed development and the Sunriver Estates development. To the west, across De Mamiel Creek is the De Mamiel Creek Golf Course, a park owned by the Capital Regional District.

Referrals

Referrals were sent to internal and applicable external agencies for review and comment. No major issues were identified. The Fire Department requested 2 new hydrants to be placed within the development and that the design of the cul-de-sac be a bulb to simplify apparatus turn around procedures. These requests can be achieved.

A. Bylaw No. 600, Sooke Zoning Bylaw 2013 (Zoning Bylaw) Context

The applicant is requesting to rezone the 2.2 hectare property from Rural (RU2) to Medium Lot Residential (R2), which has a minimum lot size for subdivision purposes of 600m². The R2 zone is only permitted in the Sewer Specified Area.

The applicant has provided a sketch plan of a proposed lot configuration for 15 strata lots. It is the applicant's intention to be the land developer and builder of the proposed homes in order to provide consistent home designs that will compliment the new development and surrounding area. The proposed homes are expected to be approximately 1,900 to 2,700ft² with double garages and walk out basement suites.

Geotechnical

A Geotechnical Report will be required at time of development permit and subdivision to determine appropriate setbacks from the top of the steep bank.

Parking

The size of the proposed lots will provide enough room to accommodate the required parking for a single family dwelling (2 parking spaces) and a suite (1 parking space). In addition, the applicant will be providing more parking within the development by providing an additional 13 parking spaces along the common property road. The applicant understands the need for additional parking and has agreed to enter into a covenant to increase the number of parking stalls required by the Zoning Bylaw in the proposed development by an additional 13 spaces with the following conditions: (a) the visitor parking spaces will be located in an area designated to be road or common property and (b) the visitor parking spaces will be constructed by the developer prior to final approval of subdivision.

The proposed width of the strata road is 11m. After visitor parking has been accommodated, the width of the strata road will be 8.4m. At time of development permit and subdivision, a detailed review of the internal road design and visitor parking layout will occur to ensure that there is adequate space for emergency vehicle access.

Additionally, the applicant has agreed that the parking space to be constructed to service the secondary suite shall be designed so it is independently accessible and will not be blocked by another parking space. All proposed parking spaces must be shown on the building permit application site plan for approval by the Director of Development Services prior to building permit issuance.

B.Bylaw No. 400, Sooke Official Community Plan 2010 (OCP) Context

The OCP provides the policy context for evaluating rezoning applications. The property is designated *Community Residential* by the OCP and the rezoning application is consistent with the Plan. The *Community Residential* land use designation supports low to medium density residential growth, sustainable construction of single family and multiple family residential dwellings, reduction of residential sprawl and of municipal services in an efficient manner. This rezoning will provide high quality housing and will compliment the character of the surrounding area that includes Sunriver, the neighbouring development to the north.

Affordable Housing - OCP policies 4.7.3(f)(g)

In addition to providing rental suites, the applicant has offered to contribute \$5,000.00 into Sooke's Affordable Housing Reserve Fund.

Parkland Dedication

After discussions with CRD Parks, SEAPARC, Sooke Parks Department and the applicant, securing parkland around the De Mamiel Creek riparian area as shown on the attached Map "A - Proposed Park", is recommended to protect the watershed and surrounding environmentally sensitive areas. In addition, as shown on Map A-2 in the Parks and Trails Master Plan, there is existing Park/Greenspace located to the north (De Mamiel Creek Park), west (De Mamiel Creek Golf Course), northeast (Sunriver Nature Trail Park) and east (Sooke River Campground) of the subject property. Should any opportunities arise, acquiring the proposed area as Park will allow opportunities for dialogue to occur on potential future trail linkages to surrounding existing Park/Greenspace.

The following OCP policies support parkland dedication:

4.10 Environment: 4.10.2(e)(g)(n), 4.10.3(j)(o)(z);

Due to the environmental sensitivities on the property, a development permit (DP) is required prior to subdivision. The DP will address landscaping, parking and environmental protection as per Development Permit Area #2 in the OCP. A Geotechnical Report and Riparian Areas Assessment will be required to be submitted with the DP application.

Strategic Relevance:

This proposal meets the following strategic priorities in In Council's 2016 Corporate Strategic Plan:

COMMUNITY PLANNING – The District will work towards streamlining planning processes to encourage investment and job growth in the community.

ENHANCING COMMUNITY LIVEABILITY- The District will work towards making Sooke a vibrant and accessible community. The District will take steps to protect Sooke's natural beauty.

Attached Documents:

[subject property maps 2298 Phillips Rd](#)

[Summary of Referral Comments 2298 Phillips Road](#)

[OCP Policy Context 2298 Phillips Road](#)

[Map A - Proposed Park Dedication](#)

[Conceptual LOT CONFIGURATION 2298 Phillips Road](#)

[688 \(600-49\) - RU2 to R2 - 2298 Phillips Road](#)

[DRAFT Covenant for PARKING - 2298 Phillips Road](#)

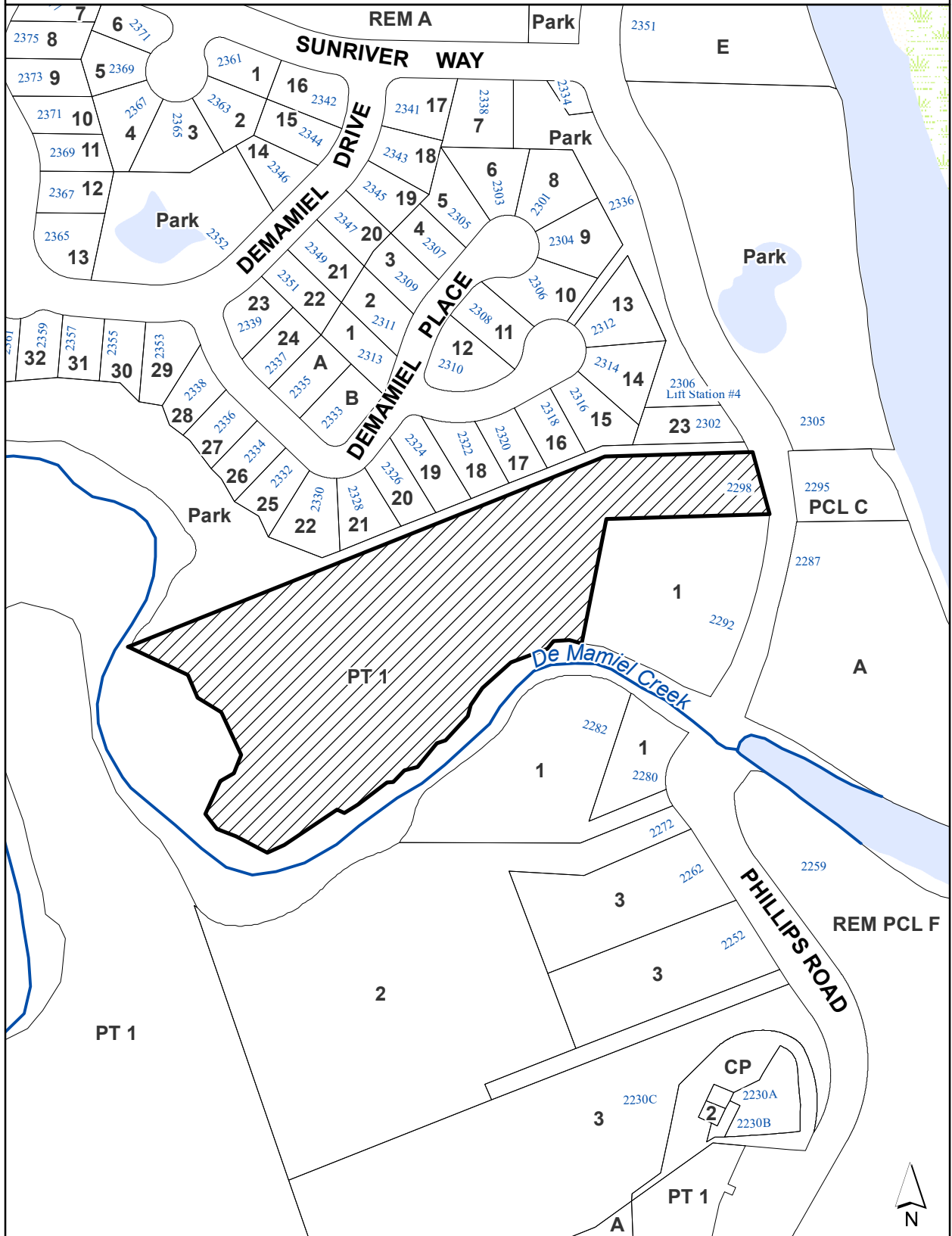
[DRAFT Covenant Geotech, RAR, Park Dedication - 2298 Phillips Road](#)

[DRAFT Covenant affordable housing - 2298 Phillips Road](#)



SUBJECT PROPERTY MAP

File: PLN01341



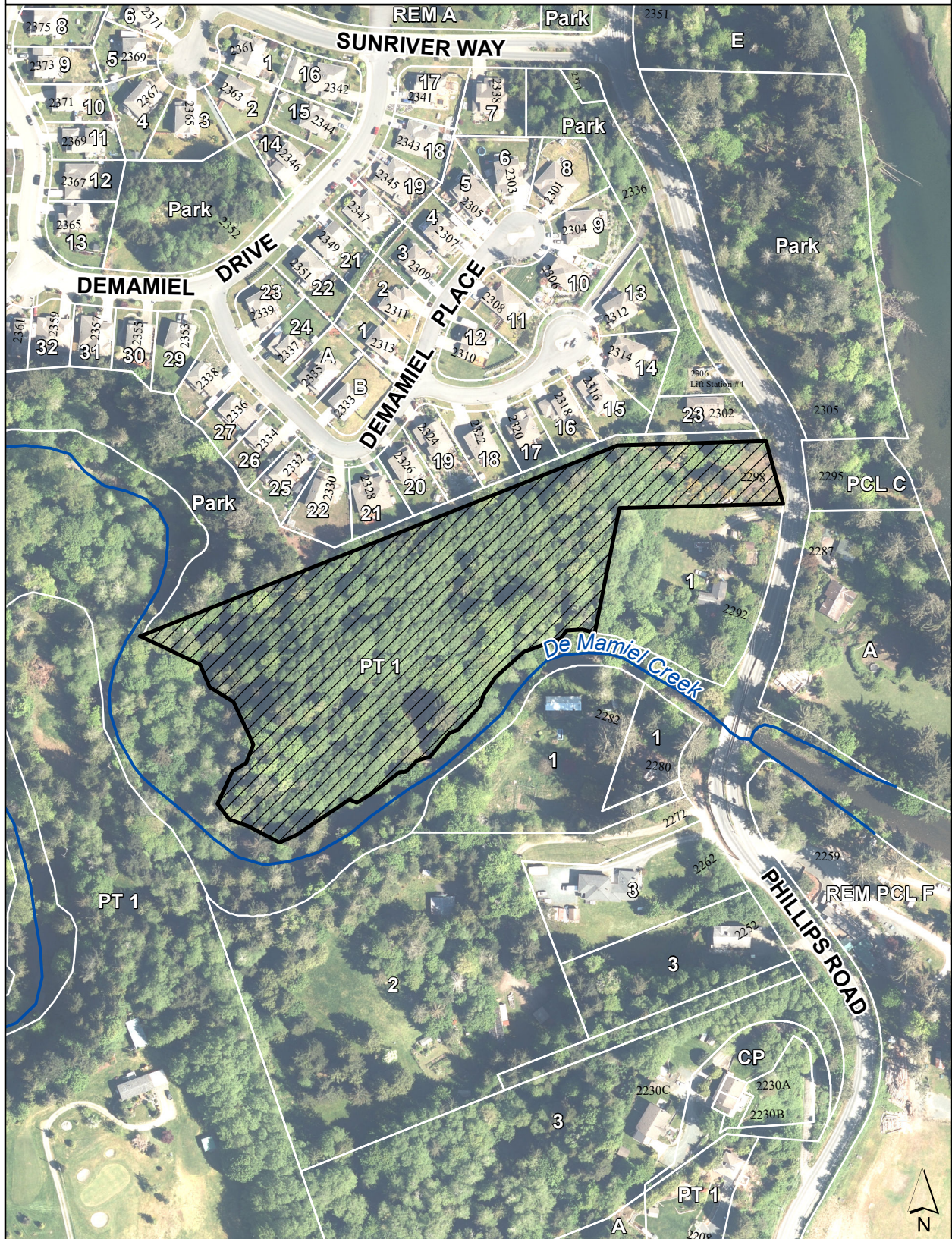
Subject Property

0 20 40 60 80 100
Metres



SUBJECT PROPERTY MAP

File: PLN01341



 Subject Property

0 20 40 60 80 100
Metres

Summary of Referral Agency Comments [originals are in the file]

SUMMARY OF COMMENTS RECEIVED for 2298 Phillips Road IN RESPONSE TO DISTRICT OF SOOKE REFERRAL

EXTERNAL REFERRALS	
Agency	Comments
BC Hydro	BC Hydro does not own any equipment on this property and does not require that a Statutory Right-of-Way Agreement be registered against the property title at this time. Depending on the development plan, a SRW may be needed in the future and it is in the developer's best interest to contact us as soon as possible
Ministry of Transportation and Infrastructure	The Ministry is not required to provide a referral response for this one as it is more than 800m from an intersection with a controlled access highway
Agricultural Land Commission	The Agricultural Land Commission (ALC) has reviewed the proposed rezoning of 2298 Phillips road and can confirm that this property is not designated as ALR, having been removed from the ALR as the result of a CRD/ALC block exclusion process initiated in 1979 (ALC legacy file #C-9021). While the ALC is aware that there are properties adjacent to the subject property to the west, those lands are across a creek/ravine and it is considered unlikely that the proposed residential development on the subject lands would in any way interfere with any existing or planned agricultural activities on those ALR lands. The ALC does not therefore request any buffering between the ALR and the subject property. The ALC trust the above is satisfactory.
Canada Post	No response
BC Transit	No response
Beecher Bay	No response
CRD Water	See attached letter
SEAPARC	Park connections should be looked at
T'souke Nation	No response
Archeological Branch	<p>According to Provincial records there are no known archaeological sites recorded on the subject property. However, archaeological potential modeling for the area indicates there is the possibility for unknown/unrecorded archaeological sites to exist on the property. Archaeological sites (both recorded and unrecorded, disturbed and intact) are protected under the <i>Heritage Conservation Act</i> and must not be altered or damaged without a permit from the Archaeology Branch.</p> <p>Prior to any land alterations (e.g., addition to home, property redevelopment, extensive landscaping, service installation), an Eligible Consulting Archaeologist should be contacted to review the proposed activities and, where warranted, conduct a walk over and/or detailed study of the property to determine whether the work may impact protected archaeological materials. If the archaeologist determines that development activities will not impact any archaeological deposits, then a permit is not required. Occupying an existing dwelling or building without any land alterations does not require archaeological study or permitting. In the absence of a confirmed archaeological site, the Archaeology Branch cannot require the proponent to conduct an archaeological study or obtain a permit prior to development. In this instance it is a risk management decision for the proponent.</p>

	If any land-altering development is planned and proponents choose not to contact an archaeologist prior to development, owners and operators should be notified that if an archaeological site is encountered during development, activities must be halted and the Archaeology Branch contacted at 250-953-3334 for direction. If an archaeological site is encountered during development and the appropriate permits are not in place, proponents will be in contravention of the <i>Heritage Conservation Act</i> and likely experience development delays while the appropriate permits are obtained.
School District #62	No response
Fortis BC	There is an existing gas pipeline stubbed into the property addressed 2298 Phillips Road. The Developer is to contact BC 1 Call at 1-800-474- 6886 a minimum of 48 hours ahead of any excavations within the Road allowances or property to obtain gas location records. If the existing pipeline is to remain on the site it is the Developers responsibility to verify that the gas pipeline remains within the property lines of the dwelling it services.
Shaw Cable	No response
Telus	No response
Building	No concerns
Fire	The Fire Dept has reviewed this application and we recommend that 2 new hydrants be placed at or near the utility proposed locations between lots 2 and 3, and 7 and 8. The Fire Dept prefers the Bulb as it significantly simplifies apparatus turn around procedures
Engineering	As the proposal is a strata with a common road I don't have an issue with the width of the road proposed or the parking configuration as shown
Environmental	Recommend park dedication of riparian area. Possible trail connection opportunity.



Making a difference...together

November 28, 2017

Integrated Water Services

479 Island Highway
Victoria, BC, Canada V9B 1H7

T: 250.474.9600

F: 250.474.4012

www.crd.bc.ca

File: 3360-20-JDFSK-17-028

Your File: PLN01341

via e-mail

Ms Tara Johnson
District of Sooke
2205 Otter Point Road
Sooke, BC V9Z 1J2

Dear Ms Johnson:

RE: PROPOSED REZONING OF LOT 1, DISTRICT LOT 27, SOOKE DISTRICT, PLAN VIP69505, EXCEPT PART IN PLAN VIP75446 (2298 PHILLIPS ROAD)

Thank you for your rezoning referral received November 7, 2017, which requests that we examine the above mentioned proposal with regard to the water supply regulations and policies of the Capital Regional District (CRD) Integrated Water Services as established for the Juan de Fuca Water Distribution Commission.

Community piped water can be supplied to this proposed subdivision, provided that the Owner(s) is prepared to pay the necessary costs and fees as authorized under CRD Bylaw No. 4190, for the supply and installation of a water distribution system capable of meeting all domestic and fire flow requirements, designed in accordance with CRD Specifications and Standard Drawings.

The existing property is not presently serviced with community piped water.

If this proposal proceeds to the development stage, a detailed review of water servicing design drawings will be required to be submitted to and approved by the CRD.

The proposed strata subdivision shall be serviced with domestic water by a single water meter located at the property frontage on Phillips Road. If on-site fire protection (Private Waterworks) is required for the development, the Owner(s) will be required to install separate domestic and fire service lines (dual water system), or install a single combined domestic/fire service with a fireline meter in a concrete chamber installed on the Owner's side of the property line, complete with statutory right of way registered on title in favour of the CRD. The Owner(s) will also be required to install appropriate backflow prevention devices on the domestic service, and on the fireline service if required. The backflow prevention devices will be owned and maintained by the strata, and shall be installed as near as possible to the property line within private property.

The Owner(s) are responsible to register the backflow prevention devices with the CRD Cross Connection Control Officer. The devices shall be tested at the time of installation, and annually thereafter, as per CRD Bylaw 3516. The testing must be completed by a Certified Tester.

The hydraulic computer model maintained by the CRD shows that a fire flow of 10,000 L/min (2,200 lpm) with at least 138 kPa (20 psi) residual pressure is presently available to this proposed subdivision in the water main adjacent to the fire hydrant (SFD214) located approximately 50 metres north of the subject property on Phillips Road.

Please note that the fire flow stated above does not account for the maximum allowable velocity of 3.5 m/s in the water main under fire flow conditions permitted by the CRD. Depending on the fire flow requirements of the subdivision, upgrading of the existing water distribution system may be required.

In stating the fire flow available, the CRD expresses no opinion as to the adequacy of the stated fire flow to provide fire protection and if applicable, recommends that the Owner(s) take the appropriate steps to confirm the available fire flow by means of a field hydrant flow test (if required the hydrant flow test will be carried out by CRD staff at the Owner(s) expense). Results of the field hydrant flow test may have to be adjusted to reflect a maximum day demand.

The Owner's Engineer will be required to calculate the fire flow requirements to Fire Underwriters Survey (FUS) standards for the development and confirm in writing to both the CRD and the District of Sooke that the available flow from the CRD system is sufficient. It is recommended the Owner's Engineer contact the District of Sooke to discuss hydrant location and orientation.

Please note that the CRD will not provide water to this subdivision until the above required waterworks are completed and paid for in full. Registration of the subdivision and any subsequent issuance of Building Permits in advance of the acceptance of the above required distribution system by the CRD does not obligate the CRD to supply water to any part of the subdivision prior to the completion and payment in full of the required waterworks.

Depending on the intended use of the property, a Development Cost Charge may apply to each of the new lots created by this subdivision.

This letter is for the purpose of providing you with information regarding the services available from the CRD, and should not be construed as either approval or rejection of the proposed rezoning by the CRD.

These conditions are valid for 180 days from date of writing. However, if at any time there is a change in legislation, regulations and CRD Bylaw No. 4190, which would cause any of the above conditions to be non-conforming, then the CRD reserves the right to revise any or all of the conditions accordingly, at any time during the 180 day period.

Yours truly,



Joseph Marr, P.Eng.
Project Engineer
Infrastructure Engineering
Integrated Water Services

JM:ls

cc: Ian Jesney, Senior Manager, Infrastructure Engineering
Kenn Mount, Fire Chief, District of Sooke

POLICY CONTEXT – 2298 Phillips Road

OFFICIAL COMMUNITY PLAN, 2010 (BYLAW 400)

4.3 Energy and Climate Change

4.3.3(f) Create contiguous development (avoiding gaps of undeveloped properties)

4.7 Housing

4.7.3(f) Require that a minimum of 10% of the total of any proposed bare land or strata single family residential subdivisions are affordable housing lots as defined by the District of Sooke. Affordable housing lots shall be sold at an affordable rate through tools such as covenants and housing agreements;

4.7.3(g) Consider allowing developers the flexibility to provide their required affordable housing in different forms thus creating an 'affordable housing mix' in new developments, e.g. secondary suites, condominium rentals units, cash, or land in lieu to the District of Sooke towards on/off-site affordable housing.

4.10 Environment

4.10.2(e) Protect sensitive natural areas, in conjunction with the T'Sou-ke Nation, CRD, the Province, and other non-profit stakeholders to identify, inventory and protect wildlife habitat areas in and around Sooke.

(g) Preserve and protect Sooke's natural resources, rural identity and scenic beauty.

(n) Harmonize existing development and the natural environment

4.10.3(j) Expand the percentage of area dedicated for natural park space, bicycle paths and trail networks to maintain healthy ecosystems, management of water quality and quantity, and provide appropriate public access and transportation corridors to connect the community.

(o) Protect and enhance wildlife and wilderness connectivity opportunities through natural corridors, and surrounding watersheds.

(z) Limit development within Environmental Sensitive Areas with guidelines and bylaws to protect the environment.

5.1 Community Residential

5.1.2(a) Provide a range of high quality housing types, tenures and densities, which can meet the diverse needs of, and attract, individuals and families of varying income levels and demographics;

(b) Provide affordable and attainable housing opportunities, to meet the needs of various age groups, family types, lifestyles and income groups;

(c) Encourage a variety of housing types, including coach housing, row housing, live/work units and townhouses etc. that diversify the housing stock;

(d) Provide the most efficient use of land and existing physical infrastructure in terms of infill/densification;

(f) Primarily concentrate new residential development in existing areas or neighbourhoods prior to expanding into new areas;

- (h) Reduce impact on the natural environment and avoid hazardous land conditions and environmentally sensitive areas;
- (i) Preserve and enhance the character of existing neighbourhoods;
- (l) Promote greenspace and boulevard treatments which incorporate rainwater management

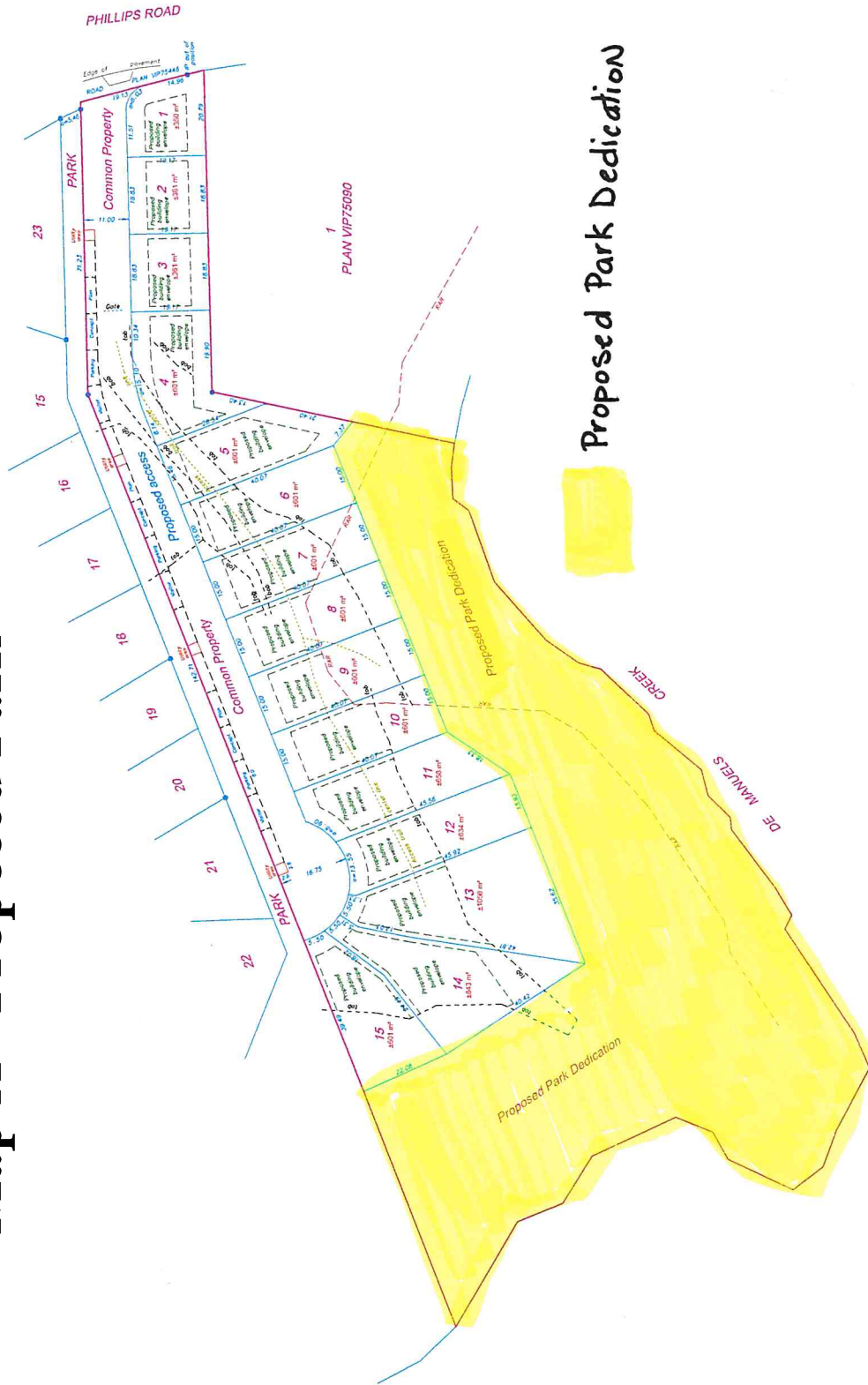
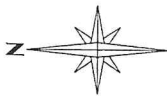
SKETCH PLAN OF LOT CONFIGURATION UPON PART OF LOT 1, DISTRICT LOT 27,
 SOOKE DISTRICT, PLAN VIP69505, EXCEPT PART IN PLAN VIP75446.

Map A - Proposed Park



LEGEND
 --- Divides lots per found
 --- Divides bottom of bank
 --- Divides riparian area and riparian boundary

NOTE
 ECR structures are not shown.
 ROR boundary provided by Water Engineering
 For discussion purposes only.
 Total area of Proposed Lots 1 to 15 = 6,927.1 m²
 Average Lot area = 4,618 m²



Proposed Park Dedication

Dec 22, 2017

File: WYK69505-0505
 Date: December 22, 2017
 Title: WYK69505-0505
 Author: WYK69505-0505
 Version: 1.0
 Project: WYK69505-0505
 www.wyke.com

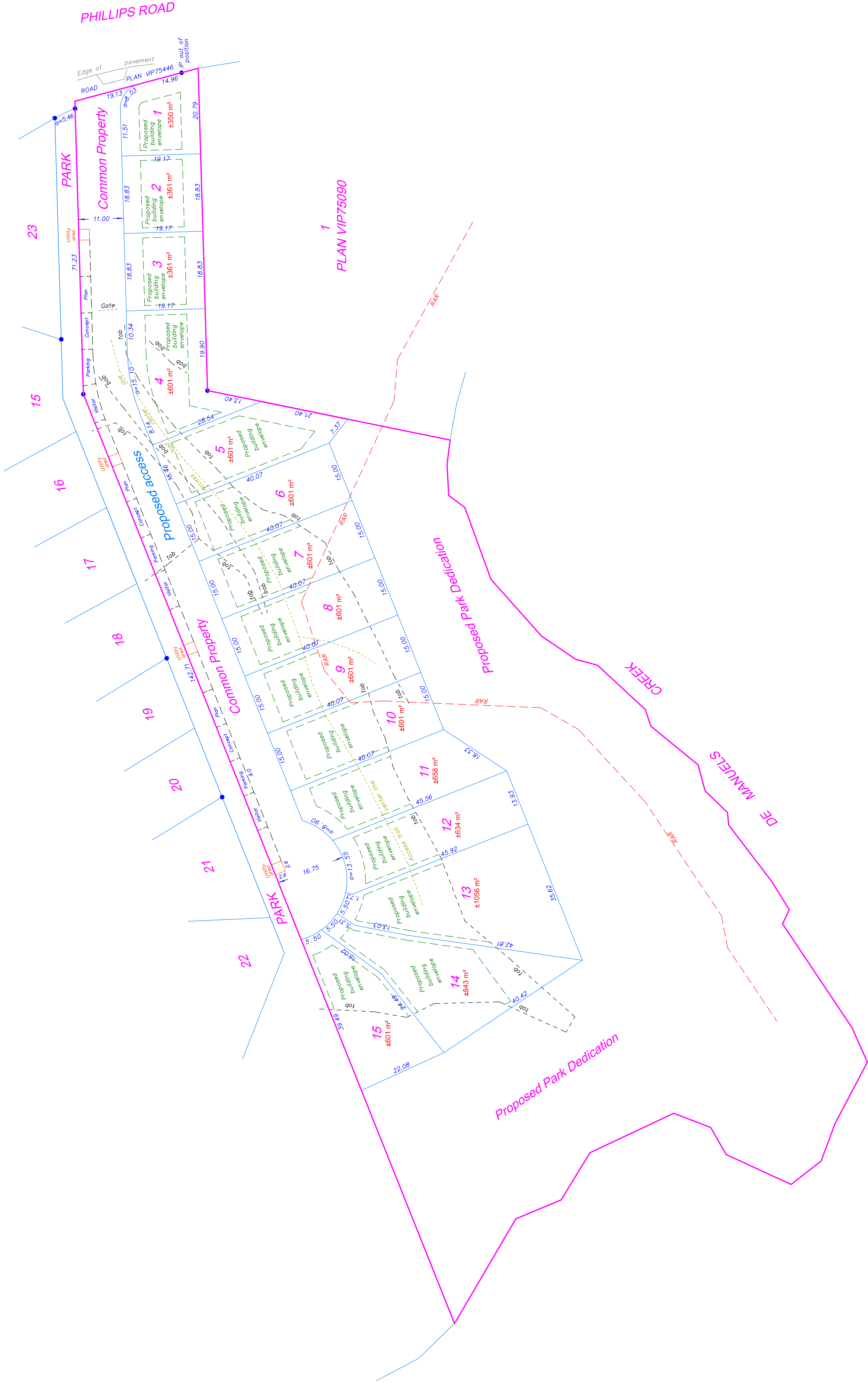
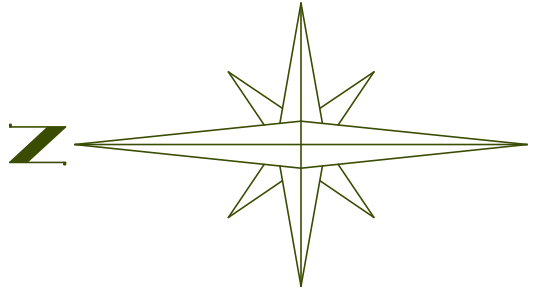
Conceptual Lot Configuration



- LEGEND
- Denotes iron pin found
 - top Denotes top of bank
 - bot Denotes bottom of bank
 - RAAR Denotes riparian area regulation boundary

NOTE:
Existing structures are not shown.
RAAR boundary provided by Wedler Engineering
For discussion purposes only.

Total area of Proposed Lots 1 to 15 = ± 9,071 m²
Average Lot area = ± 605 m²





DISTRICT OF SOOKE ZONING AMENDMENT BYLAW NO. 688

A bylaw to amend Bylaw No. 600, *Sooke Zoning Bylaw, 2013* for the purpose of amending the zoning on the property known as 2298 Phillips Road from Rural (RU2) to Medium Lot Residential (R2).

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This bylaw is cited as *Zoning Amendment Bylaw No. 688 (600-49)*.
2. The parcel of land legally described as Lot 1, District Lot 27, Sooke District, Plan VIP69505 Except Part in Plan VIP75446 as shown boldly outlined and hatched on **Schedule A**, which is affixed to and forms part of this bylaw, is hereby rezoned from from Rural (RU2) to Medium Lot Residential (R2).
3. Bylaw No. 600, Sooke Zoning Bylaw, 2013, as amended, and **Schedule A** attached thereto, are amended accordingly.

READ a FIRST and SECOND time the __day of ____, 2017.

PUBLIC HEARING held the __day of ____, 201 .

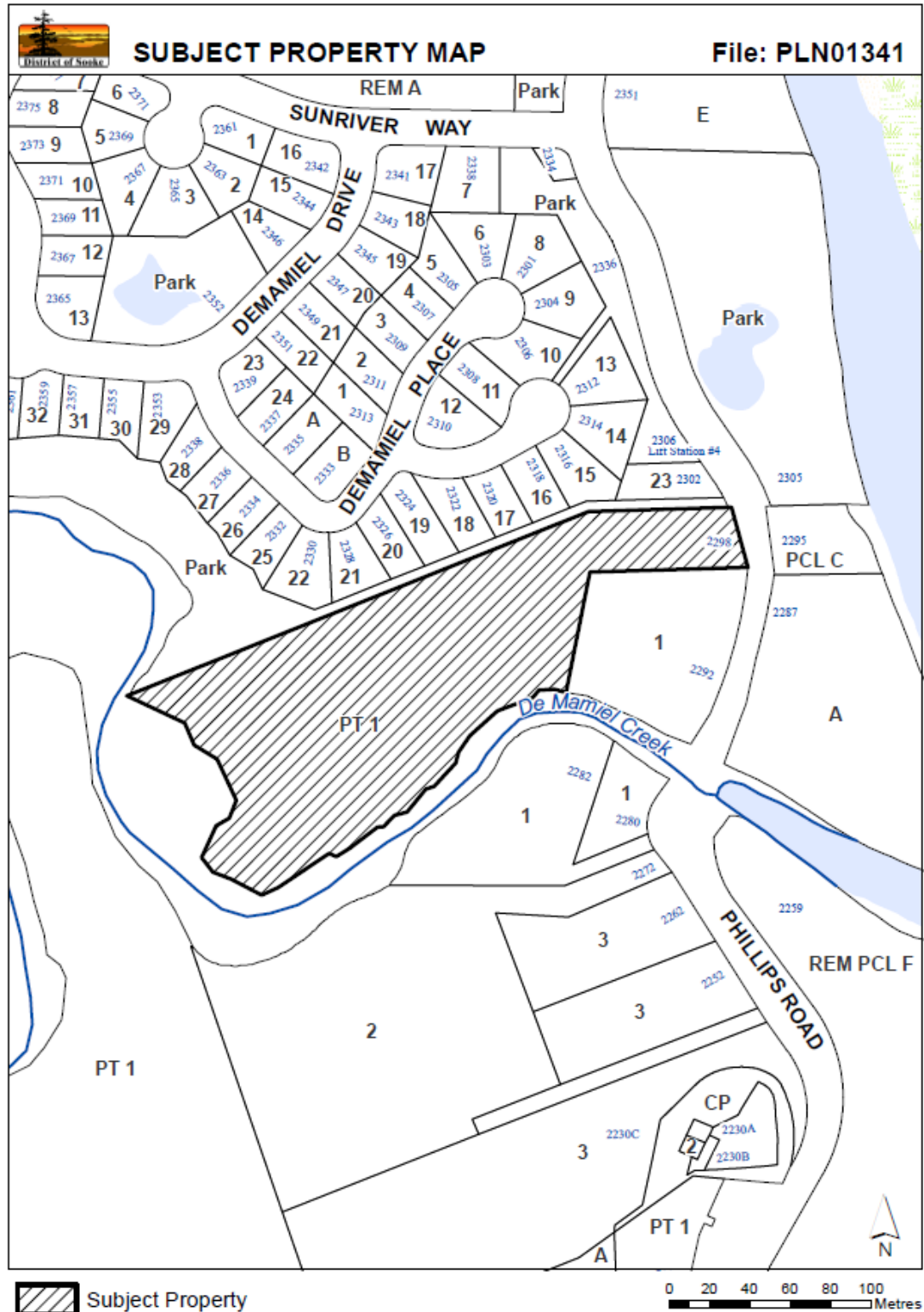
READ a THIRD time the __day of ____, 201 .

ADOPTED the __day of ____, 201 .

Maja Tait
Mayor

Carolyn Mushata
Corporate Officer

SCHEDULE A



TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT

THIS AGREEMENT, dated for reference _____, 201__ is made

BETWEEN:

Janet Claire Kelly
6458 East Sooke Road
Sooke, BC V9Z 1A1

(the "Owner")

AND:

DISTRICT OF SOOKE, a municipality incorporated under
the Local Government Act, R.S.B.C. 1996, c.323 and having
its office at 2205 Otter Point Road, Sooke, BC V9Z 1J2

(the "Municipality")

GIVEN THAT:

- A. The Owner is the registered Owner in fee simple of the land in Sooke, British Columbia, legally described as:

Lot 1, District Lot 27, Sooke District, Plan VIP69505, Except Part in Plan VIP75446

(PID 024-601-811)

(the "Land");
- B. The Owner proposes to develop the Land for a residential use;
- C. The Owner has requested the Municipality to adopt Bylaw No. 688, *Zoning Amendment Bylaw (600-49)* (the "Rezoning Bylaw") rezoning the Land to permit the development proposed by the Owner, and
- D. The Council of the Municipality has determined that the adoption of the Rezoning Bylaw would, but for the covenants contained in this Agreement, not be in the public interest; and the Owner therefore wishes to grant pursuant to s.219 of the *Land Title Act*, and the Municipality wishes to accept, the covenants over the Land that are set out in this Agreement;

THIS AGREEMENT is evidence that in consideration of payment of \$1.00 by each of the Municipality to the Owner (the receipt of which is acknowledged by the Owner), the Owner grants to the Municipality in accordance with s.219 of the Land Title Act the following covenants:

1. The Owner covenants and agrees with the Municipality that:
 - (a) The Land must not be redeveloped beyond its current use;
 - (b) The Land must not be subdivided
 - (c) No building permit may be applied for, and the Municipality is not obliged to issue any building permit, in respect of the Land with exception of improvements to existing structures; and
 - (d) No occupancy permit may be applied for, and the Municipality is not obliged to issue any occupancy permit, in respect of the Land,

unless the use, subdivision, building or occupancy is in accordance with the Schedule of Restrictions attached as Schedule A.
2. Any opinion, decision, act or expression of satisfaction of the Municipality provided for in this Agreement is to be taken or made by the Municipality's Municipal Engineer or his or her delegate authorized as such in writing, in each case acting reasonably.
3. The Owner may, after the Rezoning Bylaw is adopted, request a discharge of any particular covenant granted in this Agreement in respect of any parcel into which the Land may be subdivided, and the Municipality shall execute and deliver a discharge in respect of any such covenant that has been, in the Municipality's opinion, fully satisfied by the Owner.
4. The Owner releases, and must indemnify and save harmless, the Municipality, its elected and appointed officials and employees, from and against all liability, actions, causes of action, claims, damages, expenses, costs, debts, demands or losses suffered or incurred by the Owner, or anyone else, arising from the granting or existence of this Agreement, from the performance by the Owner of this Agreement, or any default of the Owner under or in respect of this Agreement.
5. The parties agree that this Agreement creates only contractual obligations and obligations arising out of the nature of this document as a covenant under seal. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of, or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and under the law pertaining to covenants under seal.
6. The rights given to the Municipality by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the Municipality to anyone, or obliges the Municipality to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement.
7. Where the Municipality is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the Municipality is under no public law duty of fairness or natural justice in that regard and agrees that the Municipality may do any of those things in the same manner as if it were a private party and not a public body.

8. This Agreement does not:
 - (a) affect or limit the discretion, rights or powers of the Municipality under any enactment (as defined in the Interpretation Act, on the reference date of this Agreement) or at common law, including in relation to the use of the Land,
 - (b) affect or limit any enactment related to the use of the Land, or
 - (c) relieve the Owner from complying with any enactment, including in relation to the use of the Land.
9. Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under s.219 of the Land Title Act in respect of the Land and this Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated. The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered Owner of the Land.
10. The Owner agrees to do everything reasonably necessary, at the Owner's expense, to ensure that this Agreement is registered against title to the Land with priority over all financial charges, liens and encumbrances registered, or the registration of which is pending, at the time of application for registration of this Agreement.
11. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
12. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
13. This Agreement is the entire agreement between the parties regarding its subject.
14. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.
15. The Owner must do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instrument.
16. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the Land Title Office Form C that is attached hereto and forms part of this Agreement.

SCHEDULE "A"

SCHEDULE OF RESTRICTIONS

1. Prior to subdivision approval, the owner shall construct thirteen (13) Visitor Parking spaces. These Visitor parking spaces will be in addition to the number of parking spaces required on each lot created for a single-family dwelling and a secondary suite as per the Sooke Zoning Bylaw and will be constructed within common property strata road, common property or within the road built to access the subdivision.
2. Any lot on which a single-family dwelling with suite is to be constructed shall provide a minimum of two (2) parking spaces for the primary residence and one (1) additional parking space for the secondary suite. All three (3) parking spaces shall be located within the lot upon which the single-family dwelling and suite are to be located. The three (3) parking spaces shall be in addition to the thirteen (13) Visitor Parking spaces. Additionally, the parking space to be constructed on the residential lot to service the secondary suite shall be designed so it is independently accessible and will not be blocked by another parking space. All proposed parking spaces must be shown on the building permit application site plan for approval by the Director of Development Services prior to building permit issuance. All parking spaces must be fully constructed and ready for use prior to an Occupancy Certificate being granted.

END OF DOCUMENT

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT

THIS AGREEMENT, dated for reference _____, 201__ is made

BETWEEN:

Janet Claire Kelly
6458 East Sooke Road
Sooke, BC V9Z 1A1

(the "Owner")

AND:

DISTRICT OF SOOKE, a municipality incorporated under
the Local Government Act, R.S.B.C. 1996, c.323 and having
its office at 2205 Otter Point Road, Sooke, BC V9Z 1J2

(the "Municipality")

GIVEN THAT:

- A. The Owner is the registered Owner in fee simple of the land in Sooke, British Columbia, legally described as:

Lot 1, District Lot 27, Sooke District, Plan VIP69505, Except Part in Plan VIP75446

(PID 024-601-811)

(the "Land");
- B. The Owner proposes to develop the Land for a residential use;
- C. The Owner has requested the Municipality to adopt Bylaw No. 688, *Zoning Amendment Bylaw (600-49)* (the "Rezoning Bylaw") rezoning the Land to permit the development proposed by the Owner, and
- D. The Council of the Municipality has determined that the adoption of the Rezoning Bylaw would, but for the covenants contained in this Agreement, not be in the public interest; and the Owner therefore wishes to grant pursuant to s.219 of the *Land Title Act*, and the Municipality wishes to accept, the covenants over the Land that are set out in this Agreement;

THIS AGREEMENT is evidence that in consideration of payment of \$1.00 by each of the Municipality to the Owner (the receipt of which is acknowledged by the Owner), the Owner grants to the Municipality in accordance with s.219 of the Land Title Act the following covenants:

1. The Owner covenants and agrees with the Municipality that:
 - (a) The Land must not be redeveloped beyond its current use;
 - (b) The Land must not be subdivided
 - (c) No building permit may be applied for, and the Municipality is not obliged to issue any building permit, in respect of the Land with exception of improvements to existing structures; and
 - (d) No occupancy permit may be applied for, and the Municipality is not obliged to issue any occupancy permit, in respect of the Land,

unless the use, subdivision, building or occupancy is in accordance with the Schedule of Restrictions attached as Schedule A.
2. Any opinion, decision, act or expression of satisfaction of the Municipality provided for in this Agreement is to be taken or made by the Municipality's Municipal Engineer or his or her delegate authorized as such in writing, in each case acting reasonably.
3. The Owner may, after the Rezoning Bylaw is adopted, request a discharge of any particular covenant granted in this Agreement in respect of any parcel into which the Land may be subdivided, and the Municipality shall execute and deliver a discharge in respect of any such covenant that has been, in the Municipality's opinion, fully satisfied by the Owner.
4. The Owner releases, and must indemnify and save harmless, the Municipality, its elected and appointed officials and employees, from and against all liability, actions, causes of action, claims, damages, expenses, costs, debts, demands or losses suffered or incurred by the Owner, or anyone else, arising from the granting or existence of this Agreement, from the performance by the Owner of this Agreement, or any default of the Owner under or in respect of this Agreement.
5. The parties agree that this Agreement creates only contractual obligations and obligations arising out of the nature of this document as a covenant under seal. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of, or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and under the law pertaining to covenants under seal.
6. The rights given to the Municipality by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the Municipality to anyone, or obliges the Municipality to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement.
7. Where the Municipality is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the Municipality is under no public law duty of fairness or natural justice in that regard and agrees that the Municipality may do any of those things in the same manner as if it were a private party and not a public body.

8. This Agreement does not:
 - (a) affect or limit the discretion, rights or powers of the Municipality under any enactment (as defined in the Interpretation Act, on the reference date of this Agreement) or at common law, including in relation to the use of the Land,
 - (b) affect or limit any enactment related to the use of the Land, or
 - (c) relieve the Owner from complying with any enactment, including in relation to the use of the Land.
9. Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under s.219 of the Land Title Act in respect of the Land and this Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated. The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered Owner of the Land.
10. The Owner agrees to do everything reasonably necessary, at the Owner's expense, to ensure that this Agreement is registered against title to the Land with priority over all financial charges, liens and encumbrances registered, or the registration of which is pending, at the time of application for registration of this Agreement.
11. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
12. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
13. This Agreement is the entire agreement between the parties regarding its subject.
14. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.
15. The Owner must do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instrument.
16. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the Land Title Office Form C that is attached hereto and forms part of this Agreement.

SCHEDULE "A"

SCHEDULE OF RESTRICTIONS

1. A Geotechnical Report shall be submitted with a Development Permit application or with a Subdivision application, whichever comes first.
2. Completion of a Riparian Area Assessment as required by the Riparian Area Regulation is required to be submitted with a Development Permit application or with a subdivision application, whichever comes first.
3. Prior to final approval of the first subdivision of the Lands, the Owner shall transfer to the District, free and clear of any financial charges or encumbrances, without compensation and at the Owner's cost, an area for Park as generally indicated on Schedule B attached hereto.

DRAFT

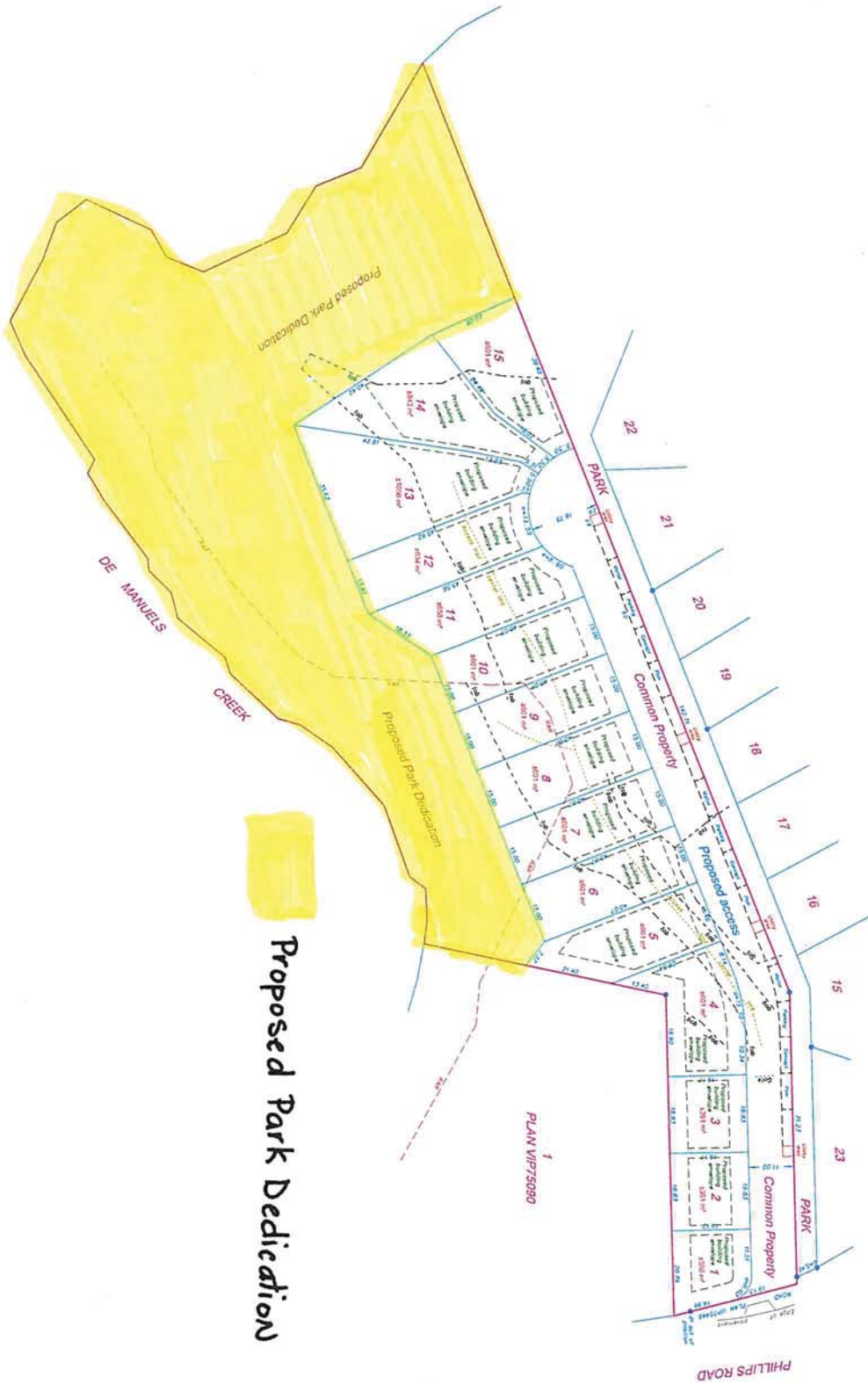
**SKETCH PLAN OF LOT CONFIGURATION UPON PART OF LOT 1, DISTRICT LOT 27,
Sooke District, PLAN VIP69505, EXCEPT PART IN PLAN VIP75446.**



- LEGEND**
- Existing lot and block boundaries
 - Proposed lot and block boundaries
 - Proposed park dedication boundary
 - Proposed park dedication boundary
 - Proposed park dedication boundary

NOTES

1. The proposed park dedication boundary is shown in red.
2. The proposed park dedication boundary is shown in red.
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21. The proposed park dedication boundary is shown in red.
22. The proposed park dedication boundary is shown in red.
23. The proposed park dedication boundary is shown in red.



Proposed Park Dedication

Dec 22, 2017

Site: VIP69505-150-01
Date: December 22, 2017
Drawn: [Name]
Checked: [Name]
Approved: [Name]
Scale: 1:500
Sheet: 1 of 1
Notes: [Notes]

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT

THIS AGREEMENT, dated for reference _____, 201__ is made

BETWEEN:

Janet Claire Kelly
6458 East Sooke Road
Sooke, BC V9Z 1A1

(the “Covenantor”)

AND:

DISTRICT OF SOOKE, a municipality incorporated under the Local Government Act, R.S.B.C. 1996, c.323 and having its office at 2205 Otter Point Road, Sooke, BC V9Z 1J2

(the “Municipality”)

GIVEN THAT:

- A. The Covenantor is the registered Owner in fee simple of the land in Sooke, British Columbia, legally described as:
- Lot 1, District Lot 27, Sooke District, Plan VIP69505, Except Part in Plan VIP75446
- (PID 024-601-811)
- (the “Land”);
- B. Section 219 of the *Land Title Act* provides, inter alia, that a covenant, whether of a negative or positive nature, may be registered as a charge against the title, in favour of the Municipality or the Crown, and that the covenant is enforceable against the Covenantor and the successors in title of the Covenantor.
- C. A covenant under Section 219 of the *Land Title Act* may include provisions in respect of the use of land, the use of a building on or to be erected on lands; that land is to be built on in accordance with the covenant, is not to be built on except in accordance with that covenant or is not to be built on; that land is not to be subdivided unless in accordance with the covenant or is not to be subdivided.
- D. The Covenantor agrees that the Land is to not to be built on except in accordance with the provisions in respect of use of land and the terms and conditions herein provided for in this covenant.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT pursuant to Section 219 of the *Land Title Act* and in consideration of the premises, the mutual covenants and agreements contained herein and other good and valuable consideration and the sum of One Dollar (\$1.00) now paid by the Municipality to the Covenantor (the receipt and sufficiency whereof is hereby acknowledged), the parties hereto covenant and agree that the Lands shall not be used or built on except in accordance with this Covenant as follows:

1. THE COVENANTOR COVENANTS AND AGREES with the Municipality that
 - a) No subdivision is to be approved on the Land until the owner provides \$5,000.00 towards Bylaw No. 259, *Housing Reserve Fund Establishment Bylaw, 2006*.
2. IT IS MUTUALLY UNDERSTOOD, agreed and declared by and between the parties hereto that:
 - a) nothing contained or implied herein shall in any way restrict or abrogate and shall not be deemed to restrict or abrogate, the rights and powers of the Municipality in the exercise of its functions under any public and private statutes, by-laws, orders and regulations, in its absolute discretion, and in accordance with its lawful powers and duties;
 - b) the burden of the covenants herein provided for shall run with the Lands and will be personal and binding upon the Covenantor during the Covenantor's seisen of or ownership of any interest in the Lands;
 - c) notwithstanding anything to the contrary, the Covenantor shall not be liable under any breach of any covenants and agreements contained herein occurring after the Covenantor ceases to have any further interest in the Lands;
 - d) the Covenantor will deliver, after execution hereof, this Agreement to the Municipality in a form acceptable as a Section 219 Covenant and concurrently such instruments of priority as may be necessary to give this Agreement priority over all financial charges and encumbrances which may have been registered against the title to the Lands at the time of submitting this Agreement for registration in the applicable Land Title Office, save and except those specifically approved in writing by the Municipality or in favour of the Municipality;
 - e) the fee simple estate in and to the Lands will not pass or vest in the Municipality under or by virtue of these presents and the Covenantor may fully use and enjoy the Lands except only for the requirements provided for in this Agreement;
 - f) the Covenantor and its successors and assigns shall at all times indemnify and save harmless the Municipality from and against all claims, demands, actions, suits, loss, costs, fines, penalties, charges, damages and expenses including legal fees and litigation expenses whatsoever which the Municipality may incur, suffer or be put to arising out of or in connection with any breach of any covenant or agreement on the part of the Covenantor contained in this Agreement;
 - g) the covenants and agreements on the part of the Covenantor and herein provided for have been made by the Covenantor as contractual obligations as well as having been made pursuant to Section 219 and as such will be binding on the Covenantor;
 - h) nothing herein provided for shall be deemed to constitute waivers of any lawful requirements within which the Covenantor would otherwise be obligated to comply with;
 - i) no amendment of, addition to, or discharge of this Agreement shall be binding upon the parties hereto unless it is in writing and executed by the parties hereto;
 - j) if any provision provided for in this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provisions of this Agreement which shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained therein and such other provisions shall be enforceable to the fullest extent permitted by law;
 - k) the Municipality, in addition to its rights under this Agreement or at law, will be entitled to all equitable remedies, including specific performance, injunction and/or declaratory relief, to enforce its rights under this Agreement;

- l) the Covenantor shall pay for the preparation and registration, if applicable, of this Agreement together with any concurrent instruments of priority as herein provided for and any amendment, addition or discharge thereof;
- m) wherever the singular, masculine, or neuter is used herein, the same shall be construed as meaning the plural, feminine or the body corporate or politic according to the context in which it is used;
- n) the parties hereto shall do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement; and
- o) this Agreement shall enure to the benefit of and be binding upon the Covenantor, the Municipality and their respective successors and assigns.

IN WITNESS WHEREOF the parties hereby acknowledges that this Agreement has been duly executed and delivered by executing the Form C and D attached hereto.

END OF DOCUMENT

9. BYLAWS

9.1. Bylaw No. 688 (600-49), Zoning Amendment - 2298 Phillips Road

The Planner II provided a PowerPoint presentation and overview of the proposed development, recommending Council give First and Second reading to rezone 2298 Phillips Road from Rural (RU2) to Medium Lot Residential (R2). As well, requesting a public hearing be scheduled and that prior to final adoption the owner enter into a section 219 covenant to address; parking, secure a cash contribution as a provision of Bylaw No. 259, the parkland dedication and Geo technical reports are received.

Council Discussion:

- It was requested that sight lines improve at the connection with Phillips Road.
- There were concerns with traffic flow to and from the proposed subdivision.
- There was dissatisfaction with increased sewer connections, in areas not currently in the Sewer Specified Area and outside the town core.
- In response to an inquiry regarding lots sizes, the Director of Development Services informed Council that this area is bare land strata which can result in varied lot sizes. Meaning that a reduction in lot size can occur if complacency with all setbacks is met.
- Councillor Kasper does not support first and second reading, because this property is not currently part of the existing Sewer Specified Area boundary and future sewer capacity is unclear.

2018-05

MOVED by Councillor Reay, seconded by Councillor Logins:

THAT Council give First and Second reading to *Zoning Amendment Bylaw No. 688, (600-49), 2017* to rezone 2298 Phillips Road from Rural (RU2) to Medium Lot Residential (R2).

CARRIED.

In Favour: Mayor Tait, Councillor Berger, Councillor Logins, Councillor Pearson, and Councillor Reay

Opposed: Councillor Kasper

Absent: Councillor Parkinson

2018-06

MOVED by Councillor Reay, seconded by Councillor Pearson:

THAT a Public Hearing be scheduled for *Zoning Amendment Bylaw No. 688 (600-49), 2017* in accordance with Section 466 of the *Local Government Act*.

CARRIED.

In Favour: Mayor Tait, Councillor Berger, Councillor Kasper, Councillor Logins, Councillor Pearson, and Councillor Reay

Absent: Councillor Parkinson

2018-07

MOVED by Councillor Reay, seconded by Councillor Logins:

THAT prior to final adoption of *Zoning Amendment Bylaw No. 688 (600-49), 2017* the owner enter into section 219 covenants to address the following:

1. Secure thirteen (13) additional parking spaces within the development and require design standards for suite parking on lots;
2. Secure provision of a \$5,000.00 cash contribution to Bylaw No. 259, *Housing Reserve Fund Establishment Bylaw, 2006*;
3. Accept the area noted on Map "A - Proposed Park" to be given as parkland dedication at time of subdivision; and
4. Require a Geotechnical Report to be submitted by the owner prior to development permit or subdivision, whichever comes first

CARRIED.

In Favour: Mayor Tait, Councillor Berger, Councillor Kasper, Councillor Logins, Councillor Pearson, and Councillor Reay

Absent: Councillor Parkinson

DRAFT