

File: M:\Mapping Requests - Internal\ - PLANNING & DEVELOPMENT - \Land Use Contracts\Individual Property Maps\REZONING\_RM3.dwg Last Modified: 2019Dec09



## City of Port Moody - Land Use Contract

**2611-2621 Jane Street**

Underlying Zone: RM2

Proposed New Zone: RM3

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 **SUBJECT PROPERTIES**

CITY OF PORT MOODY  
BY-LAW No. 1306

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

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WHEREAS by By-law No. 1304 of the City of Port Moody, dated the 26th day of July, 1976 the area of lands described as:

The Easterly 132 feet of Lot 2, Block 29, District Lot 201, Group One, Plan 72, New Westminster District

AND

That unopened portion of Grant Street Road Allowance lying south of Jane Street to a point approximately 92 feet south of the south city boundry.

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. 1304 of the City of Port Moody, dated the 26th day of July, 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 Ioco Road, Port Moody, B.C. on the 10th day of August, 1976 at the hour of 7:30 p.m. was published in the issues of the "Columbian" Newspaper, dated Tuesday, August 3rd, 1976 and Wednesday, August 4th, 1976;

AND WHEREAS the said Public Hearings were 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. 6, Authorization By-law, 1976, No. 1306."

2. APPROVAL OF CONTRACT

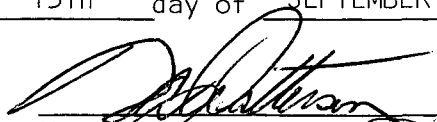
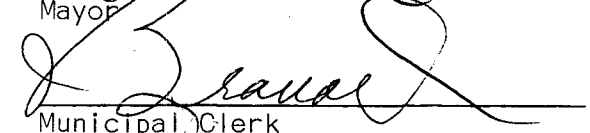
The Land Use Contract attached hereto and marked Schedule "A" is hereby adopted by the Council of the City of Port Moody.

READ A FIRST TIME this 23rd day of AUGUST, 1976.

READ A SECOND TIME this 23rd day of AUGUST, 1976.

READ A THIRD TIME this 23rd day of AUGUST, 1976.

RECONSIDERED AND FINALLY ADOPTED this 13th day of SEPTEMBER, 1976.

  
\_\_\_\_\_  
Mayor  
  
\_\_\_\_\_  
Municipal Clerk

I HEREBY CERTIFY that the above is a true copy of By-law No. 1306 of the City of Port Moody.

\_\_\_\_\_  
Municipal Clerk.

LAND USE CONTRACT NO. 6 21st day of April, 1977.

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: DONALD ARTHUR DIXON, Businessman, and WILHELM VETTER,  
Businessman, both of 1054 Alderside Road in the City  
of Port Moody, in the Province of British Columbia

(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 a developer, and thereafter the use and development of 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 Developer 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. 1304 of the said City, dated the 26th day of July, 1976, the area of lands described as:

Lot 2, Block 29, District Lot 201,  
Group One, Plan 72, N. W. D.

AND

That portion of Grant Street commencing  
at a point south of the south boundary  
of Jane Street to the south City boundary,

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. 1304 of the said City dated the 26th day of July, 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 Display Room of the Town Centre Cultural Building, 300 Ioco Road, Port Moody, B.C. on Tuesday, August 10th, 1976, at the hour of 7:30 p.m., was published in the issues of the "Columbian" Newspaper, dated Tuesday, August 3rd, 1976 and Wednesday, August 4th, 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 premise situate, lying and being in the City of Port Moody in the Province of British Columbia, more particularly known and described as:

Lot 50, Block 29, District Lot 201  
Group One, Plan 51403,  
New Westminster District

2. The Developer 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 and plans marked as Schedule "A", are attached to form part of this Contract:

| (a) | <u>Drawing No.</u> | <u>Description</u>                             |
|-----|--------------------|--|
|     | A - 1              | Site Plan                                      |
|     | A - 2              | Basement Floor Plan                            |
|     | A - 3              | Main Floor Plan                                |
|     | A - 4              | Upper Floor Plan                               |
|     | A - 5              | Front Elevation                                |
|     | A - 6              | Rear & End Elevations                          |
|     | A - 7              | Sectional Elevations (A-A) & (B-B)             |
|     | A - 8              | Sectional Elevation (C-C) & Kitchen Elevations |
|     | A - 9              | Construction Details                           |
|     | A- 10              | Landscaping Plan                               |

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

(a) Registration of Title

The building 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:

One principal building, as shown on Drawing No. A-1 & A-10 for residential use, with accessory off-street parking uses; as shown on Drawing No. A-1

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

The building to be constructed on the said land shall conform to:

Drawing Nos. A-1 to A-8 inclusive

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

- (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 No. D - 01:

6 Covered Parking Spaces  
6 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 No. A - 5 & A - 6

(g) Development and Landscaping of Site

Landscaping and grading details shall be constructed in conformity with Drawing No. A - 10 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.

Existing stands of coniferous and deciduous trees, as outlined on Plan No. A - 10 shall be maintained at the existing density.

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 of Areas and Recreation Facility

The Owner shall provide the Strata Corporation with a Grant of \$100.00 per unit for playground and/or recreation purposes.

(i) 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.

(j) Relocation and Upgrading of Certain Municipal Services

The developer shall replace the existing incandescent street light, located on Jane Street with a mercury vapour unit.

4. (k) 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 Building Inspector.

Should the Owner fail to maintain the said buildings and structures to the satisfaction of the 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.

(l) Municipal Services, Works and Utilities

All Utilities, including Water, Sanitary Sewer, Storm Sewer and Domestic Gas, shall be placed underground and shall be provided in accordance with, 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 installations.

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

(m) 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.

(n) 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 and/or others during working hours.

(o) Amendments

This Land Use Contract may be amended for minor alterations to plans and specifications by written agreement of the City Building Inspector.

5. Covenants of Owner for 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 twenty-four months from commencement of construction.

(b) As security for the due and proper performance of this Contract, and the covenants and agreements herein contained, the Owner has deposited with the City, prior to the execution of this document, a cash deposit or irrevocable letter of credit drawn by a Canadian Chartered Bank, or such other financial security, that is mutually acceptable to the City and the Owner, in the total amount of ten percentum of all building costs.

#### 5. Covenants of Owner for Security for Due Performance

- (c) The period of deposit or expiry date of letters of credit or other financial security shall be for a minimum period of 30 months from the execution date of this document or upon receipt of Completion Certificate.
- (d) 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. A-10 nor shall be altered any finished gradients, as shown on Drawing No. A-10, without prior written consent of the City Building Inspector.
- (e) The Owner further covenants and agrees to ensure that this Development, when constructed, will qualify for the Municipal Incentive Programme Grants.
- (f) 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.
- (g) 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, prior to its completion, without prior written consent of the City. Such approval shall not unreasonably be withheld.
- (h) The Developer covenants to save harmless and effectually indemnify the City 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.
  - (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 City, 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.

#### 6. Covenants of the City

The City 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 Contract and to the attachments hereto.
- 8. It is understood and agreed that the City has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise), with the Owner other than those in this Contract.
- 9. WE, D. A. Dixon and Wm. Vetter, the Owners of the lands described above, do hereby agree and consent to all of the terms and conditions herein expressed and set forth.

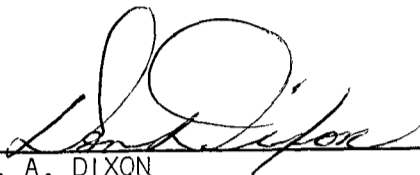
IN WITNESS HEREOF this Land Use Contract has been executed under signature of NORMAN ALBERT PATTERSON Mayor, JOHN INGOLF BROVOLD Municipal Clerk, and under seal of the Corporation of the City of Port Moody, at Port Moody, British Columbia, the \_\_\_\_\_ day of \_\_\_\_\_, 1977.

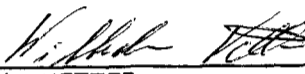
SIGNED, SEALED AND DELIVERED BY )  
D. A. DIXON and WM. VETTER in )  
the presence of: )

Blenda Freedman )  
Witness's Name )

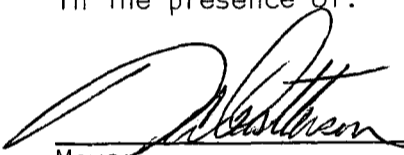
125-1133 Pipeline Rd. )  
Address Port Moody, B.C. )

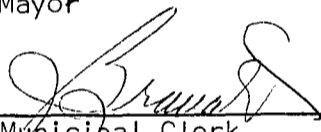
Purchasing Agent )  
Occupation )  
(As to both signatures) )

  
D. A. DIXON

  
WM. VETTER

THE CORPORATE SEAL OF THE CITY OF )  
PORT MOODY was hereunto affixed )  
in the presence of: )

 )  
Mayor )

 )  
Municipal Clerk )

## ACKNOWLEDGMENT OF OFFICER OF A CORPORATION

I HEREBY CERTIFY that, on the 21<sup>st</sup> day of APRIL, 1977,  
at Port Moody in the Province of British Columbia,  
John Brucold (whose identity has been proved by the  
~~evidence on oath of~~ who is personally known  
to me, appeared before me and acknowledged to me that he is the Municipal Clerk  
of City of Port Moody, and that he is  
the person who subscribed his name to the annexed instrument as Clerk  
of the said City and affixed the  
seal of the City to the said  
Instrument, that he was first duly authorized to subscribe his name as aforesaid, and affix the said seal to the said  
Instrument, and that such corporation is legally entitled to hold and dispose of land in the Province of British  
Columbia.

IN TESTIMONY whereof I have hereunto set my Hand and Seal of Office, at Port Moody  
in the Province of British Columbia, this 21<sup>st</sup> day of APRIL one thousand nine hundred  
and 1977

.....  
A Notary Public in and for the Province of British Columbia  
A Commissioner for taking affidavits for British Columbia

## AFFIDAVIT OF WITNESS

PROVINCE OF BRITISH COLUMBIA }  
TO WIT:

I, \_\_\_\_\_, of the \_\_\_\_\_,  
of \_\_\_\_\_, in the Province of British Columbia, make oath and say:

1. I was personally present and did see the within instrument duly signed and executed by
2. The said instrument was executed at
3. I know the said part \_\_\_\_\_, and that \_\_\_\_\_ of the full age of twenty-one years.
4. I am the subscribing witness to the said instrument and am of the full age of sixteen years.

SWORN before me at  
in the Province of British Columbia,  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

.....  
A Notary Public in and for the Province of British Columbia  
A Commissioner for taking affidavits for British Columbia

## ACKNOWLEDGMENT OF MAKER

I HEREBY CERTIFY that, on the 21<sup>st</sup> day of APRIL, 1977,  
at Port Moody, in the Province of B.C.  
Donald Arthur Dixon  
Wilhelm Vetter (whose identity has been proved by the evidence  
~~on oath of~~ who is personally known to me, appeared  
before me and acknowledged to me that THEY ARE the person S mentioned in the  
annexed instrument as the maker S thereof, and whose name S ARE subscribed thereto  
as part 1/2 that THEY know the contents thereof, and that THEY executed the  
same voluntarily, and ARE of the full age of twenty-one years.

IN TESTIMONY whereof I have hereunto set my Hand and Seal of Office at Port Moody in the  
Province of British Columbia, this 21<sup>st</sup> day of APRIL in the year of our Lord  
one thousand nine hundred and 77

.....  
A Notary Public in and for the Province of British Columbia  
A Commissioner for taking affidavits for British Columbia