



### City of Port Moody - Land Use Contract

**301-319 Highland Way**

**301-311 Afton Way**

Underlying Zone: RM1

Proposed New Zone: RM3



0m 40 80

  **SUBJECT PROPERTIES**

CITY OF PORT MOODY

BY-LAW NO. 1279

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

WHEREAS by By-law No. 1253 of the City of Port Moody, dated the 8th day of September, 1975, the area of lands described as:

Lot 104, District Lot 470, Group One, Plan 48196  
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. 1253 of the City of Port Moody, dated the 8th day of September, 1975, 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 a Public Hearing to be held by the Council of the City of Port Moody in the Council Chamber of the Public Safety Building, Port Moody, B. C., on Monday, September 29, 1975, at the hour of 7:30 P. M., was published in the issues of the "Columbian" Newspaper, dated Friday, September 19, 1975, and Saturday, September 20, 1975;

AND WHEREAS notice of a further Public Hearing to be held by the Council of the City of Port Moody, in the Display Room of the Town Centre Cultural Building, Port Moody, B.C. on Tuesday, May 18, 1976, was published in the issues of the "Columbian" Newspaper dated Thursday, May 13, 1976, and Friday, May 14, 1976;

AND WHEREAS the said Public Hearings were held at the times and places 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 By-law No. 1, 1976".

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 7th day of June, 1976.

READ A SECOND time this 7th day of June, 1976.

READ A THIRD time this 14th day of June, 1976

RECONSIDERED AND FINALLY ADOPTED this 28th day of JUNE, 1976.

  
\_\_\_\_\_  
Mayor

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

I HEREBY CERTIFY that the above is a true copy of By-law No. 1279, of the City of Port Moody.

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

LAND USE CONTRACT NO 6 24 day of FEBRUARY, 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: COMMUNITY BUILDERS LTD., a corporate body  
carrying on business at 302 Oxford Drive 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 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 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. 1253 of the said City, dated the 8th day of September, 1975, the area of lands described as:

Lot 104, District Lot 470, Group One, Plan 48196,  
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. 1253 of the said City dated the 8th day of September, 1975, 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 Council Chamber of the Public Safety Building, Port Moody, B. C., on Monday, September 29th, 1975, at the hour of 7:30 p.m., was published in the issues of the "Columbian" newspaper, dated Friday, September 19, 1975, and Saturday, September 20, 1975;

AND WHEREAS notice of a further 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, May 18, 1976, at the hour of 7:30 p.m., was published in the issues of the "Columbian" newspaper, dated Thursday, May 13, 1976, and Friday, May 14, 1976;

AND WHEREAS the said Public Hearings were duly held at the times and places 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 covenants 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 104, District Lot 470, Group One  
Plan 48196, 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, plans and schedules, marked as Schedule "A" are attached to form part of this Contract:

(a) <u>Drawing No.</u>	<u>Description</u>
P - 1	Site Development Plan
P - 2	Landscape Plan
P - 3	Ground Floor Apartment - Model "A" & "C"
P - 4	First and Second Floor Townhouse - Model "A" & "C"
P - 5	Ground Floor Apartment - Model "B" & "D"
P - 6	First and Second Floor Townhouse - Model "B" & "D"
P - 7	Cross Sections - Models "A" & "C"
P - 8	Front Elevations Nos. 1 & 2 - Models "A" & "C"
P - 9	Elevation No. 1 - Model "B"
P - 10	Elevation No. 2 - Model "B"
P - 11	Elevation No. 3 - Model "B"
P - 12	Elevation No. 4 - Model "B"
P - 13	Elevation No. 5 - Model "B"
P - 14	Elevation No. 6 - Model "B"
P - 15	Elevation No. 7 - Model "B"
P - 16	Elevation No. 8 - Model "B"
P - 17	Elevation No. 1 - Model "D"
P - 18	Elevation No. 2 - Model "D"
P - 19	Elevation No. 3 - Model "D"
P - 20	Elevation No. 4 - Model "D"
P - 21	Elevation No. 5 - Model "D"
P - 22	Elevation No. 6 - Model "D"
P - 23	Elevation No. 7 - Model "D"
P - 24	Elevation No. 8 - Model "D"
P - 25	Typical Wall Sections
P - 26	Recreation Building - Foundation Plan
P - 27	Recreation Building - Floor Plan
P - 28	Recreation Building - Section & Details
P - 29	Recreation Building - Elevations
P - 30	Playground Equipment

3. (b) Schedule                      Description

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:

One hundred and fifty residential dwelling units contained in twenty-five principal buildings, as shown on Drawing No. P-1 for residential use, with accessory off-street parking use.

One recreation complex as shown on Drawing Nos. P-27, P-28 and P-29.

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

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

Drawing No. P-1, P-3 to P-29 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. P-2:

283 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. P-8 to P-24 inclusive, and P-29, 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. P-2, and shall be carried out and completed in accordance with the standard and requirements of the Parks and Recreation Director, and maintained in perpetuity in a manner satisfactory to the Parks and Recreation Director.

(g) Development and Landscaping of Site (Continued)

The existing stand of coniferous trees adjacent to Guildford Drive, north to the most southerly building sites shall remain 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 and Landscaping of Playground Area and Pool Complex.

Construction of Recreation Complex and Playground areas shall be constructed in conformity with Drawing Nos. P-2 and P-27 to P-30 inclusive.

(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) 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 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.

(k) Municipal Services, Works and Utilities

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 and Electrical services shall be provided 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.

(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 school hours.

Construction traffic shall be diverted from Guildford Drive to Guildford Way, when feasible immediately upon construction thereof.

(n) 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.
- (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 other such financial security, that is mutually acceptable to the City and the Owner, in the total amount of ten percentum of building costs of stage one of the project as outlined in a construction permit issued by the Building Inspector of the City. Subsequent construction stages shall be bonded in a similar manner as per stage one. Upon issuance of a permit of occupancy of any stage by the Building Inspector of the City, the City shall release to the Owner any aforesaid security.
- (c) The period of deposit or expiry date of letters of credit or other financial security, shall be for a minimum period of two years 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. P-1, nor shall alter any finished gradients, as shown on Drawing No. P-2, without prior written consent of the City.
- (e) The Owner further covenants and agrees to ensure that this Development, when constructed, will qualify for the Municipal Incentive Programme Grants providing such funding is applicable and available.
- (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, provided such approval shall not be unreasonably 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, Worker's Compensation assessments, Unemployment Insurance, Federal or Provincial Tax, check-off and for encroachments owing to mistakes in survey.

5. Covenants of the Owner and Security for Due Performance

- (h) The owner further covenants and agrees with the City that all costs for the construction of Balmoral Drive extension from Guildford Drive north to Guildford Way, to City standards be borne by the owner.
- (i) The owner further covenants and agrees that all costs for the upgrading of existing services and the construction of new services on Guildford Drive east from loco Road including road, sidewalk, lighting, water, sanitary sewer, storm sewer and drainage etc., to City standards, be borne by the owner.
- (j) The owner further covenants and agrees to enter into an agreement with the City to share in the costs of constructing all services on Guildford way from loco Road north easterly to the City boundary, all to City standards.
- (k) The owner further covenants and agrees to accept his share of pro rate major shared services as per an agreement between the City and the Province of British Columbia.
- (l) 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 Developer to permit the Developer 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 Developer other than those in this Contract.
- 9. WE, Community Builders Ltd., the Owner of the lands described above, do hereby agree and consent to all of the terms and conditions herein expressed and set forth.

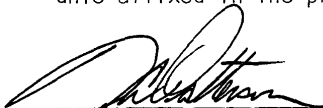
IN WITNESS HEREOF this Land Use Contract has been executed under signature of Norman A. Patterson, Mayor, & John I. Brovold, Municipal Clerk, and under seal of the Corporation of the City of Port Moody, at Port Moody, British Columbia, the \_\_\_\_\_ day of \_\_\_\_\_, 1976.

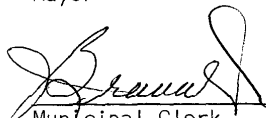
The Corporate Seal of the Corporation  
of Community Builders Ltd., was  
hereunto affixed in the presence of: )

Owner Title )

Owner Title )

The Corporate Seal of the Corporation)  
of the City of Port Moody was here- )  
unto affixed in the presence of: )

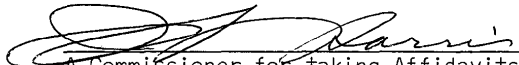
  
\_\_\_\_\_  
Mayor )

  
\_\_\_\_\_  
Municipal Clerk )

ACKNOWLEDGEMENTS OF OFFICER OF CORPORATION

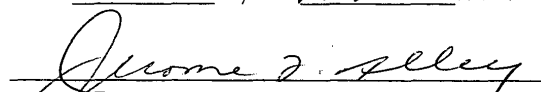
I HEREBY CERTIFY that on the 21 day of February, 1977 at the City of Port Moody, in the Province of British Columbia, ~~JAMES RALPH HOUSTON~~, whose identity has been proved by the *is personally* ~~evidence on~~ *known* ~~to me~~ appeared before me and acknowledged to me that he is the President of Community Builders Ltd., and that he is the person who subscribed his name to the annexed instrument as President of the said Company, and affixed the seal of the said Company 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 at the City of Port Moody, in the Province of British Columbia, this 21 day of February 1977.

  
A Commissioner for taking Affidavits in  
and for the Province of British Columbia.

I HEREBY CERTIFY that, on the 25TH day of FEBRUARY 1977 at the City of Port Moody, in the Province of British Columbia, oath of John Ingolf BROVOLD, Municipal Clerk, who is personally known to me, appeared before me and acknowledged to me that he is the Municipal Clerk of the City of Port Moody, AND THAT he is the person who subscribed his name to the annexed Instrument as Municipal Clerk of the City of Port Moody and affixed the Seal of the said 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 at the City of Port Moody, in the Province of British Columbia, this 25TH day of FEBRUARY 1977.

  
A Commissioner for taking Affidavits in  
and for the Province of British Columbia.

CITY OF PORT MOODY  
LAND USE CONTRACT NUMBER SIX

C O N S E N T

KNOW ALL MEN BY THESE PRESENTS THAT:-

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,  
of: Victoria, in the Province of British Columbia  
being the holder of a charge by way of Mortgage registered in  
the Land Registry Office at the City of New Westminster,  
British Columbia, under M27298 against ALL AND SINGULAR that  
certain parcel or tract of land and premises being in the  
City of Port Moody in the Province of British Columbia known  
and described as:

LOT One Hundred and Four (104) of  
DISTRICT LOT Four Hundred and Seventy (470)  
GROUP One (1)  
PLAN 48196  
NEW WESTMINSTER DISTRICT

In consideration of the sum of One Dollar (\$1.00) hereby agrees  
and consents to the registration of the Land Use Contract made  
between the registered owner of the said land and the City of  
Port Moody, which shall have the force and effect of a  
Restrictive Covenant running with the land and against the afore-  
mentioned land in priority to the said charge in the same manner  
and to the same effect as if it had been dated and registered  
prior to the said charge.

DATED this 22<sup>nd</sup> day of February A.D. 1977.

SIGNED, SEALED AND DELIVERED )  
by the above named in the )  
presence of: )

NAME:

*John M. Taylor*  
*306-1665 Oak Bay*

ADDRESS:

*Victoria*

OCCUPATION:

*Secretary*

*Debel*

DEPUTY MINISTER OF HOUSING

AFFIDAVIT OF WITNESS

PROVINCE OF BRITISH COLUMBIA)

TO WIT: )

I, Jean M. Taylor  
of the City of Victoria  
in the Province of British Columbia, make oath and say:

1. That I was personally present and did see the within instrument duly signed and executed by Lawrence I. Bell, Authorized Representative of the party thereto, for the purposes named therein.
2. That the said instrument was executed at Victoria British Columbia.
3. That I know the said party, and that he is of the full age of nineteen years.
4. That I am the subscribing witness to the said instrument and am of the full age of sixteen years.

SWORN BEFORE me at the City of )  
Victoria, in the )  
Province of British Columbia, )  
this 22nd day of February, )  
A.D. 1977. )

Jean M Taylor

Sybil Amstrong  
A Commissioner for taking Affi- )  
davits for British Columbia. )