



City of Richmond

Report to Committee

To: General Purposes Committee **Date:** July 20, 2020
From: Kim Somerville **File:** 08-4057-05/2020-Vol
 Director, Community Social Development 01
Re: **Housing Agreement Bylaw No. 10036 to Permit the City of Richmond to Secure Affordable Housing Units at 3208 Carscallen Road**

Staff Recommendation

That Housing Agreement (3208 Carscallen Road) Bylaw No. 10036 to permit the City to enter into a Housing Agreement substantially in the form attached hereto, in accordance with the requirements of section 483 of the *Local Government Act*, to secure the Affordable Housing Units required by Rezoning Application RZ 12-610011 be introduced and given first, second and third reading.

Kim Somerville
 Director, Community Social Development
 (604-247-4671)

Att. 1

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Law	<input checked="" type="checkbox"/>	
Development Applications	<input checked="" type="checkbox"/>	
SENIOR STAFF REPORT REVIEW	INITIALS:	APPROVED BY CAO
		(Acting)

Staff Report

Origin

The purpose of this report is to recommend that City Council adopt Housing Agreement Bylaw No. 10036 to secure at least 3,007 m² (32,367ft²) or 41 affordable housing units in the proposed development located at 3208 Carscallen Road (Attachment 1).

This report supports Council's Strategic Plan 2018-2022 Strategic Focus Area #4 An Active and Thriving Richmond:

An active and thriving community characterized by diverse social and wellness programs, services and spaces that foster health and well-being for all.

This report supports Council's Strategic Plan 2018-2022 Strategic Focus Area #6 Strategic and Well-Planned Growth:

Leadership in effective and sustainable growth that supports Richmond's physical and social needs.

This report supports Social Development Strategy Goal #1: Enhance Social Equity and Inclusion:

Strategic Direction #1: Expand Housing Choices

This report is also consistent with the Richmond Affordable Housing Strategy 2017–2027, adopted on March 12, 2018, which specifies the creation of affordable rental housing units as a key housing priority for the City.

The applicant, Pinnacle Living (Capstan Village) Lands Inc., has applied to the City for a Development Permit (DP 18-821292) for the third and fourth phase of a four-phase, mixed use project in the City Centre's Capstan Village area. Phase 3 and Phase 4, which comprise a total of 322 dwelling units including 41 affordable housing units, is consistent with the City's Affordable Housing Strategy 2017-2027. The Phase 3 and Phase 4 Development Permit was endorsed by the Development Permit Panel on May 13, 2020.

The Phase 3 and Phase 4 Development Permit is associated with the applicant's rezoning application (RZ 12-610011) for rezoning of lands in the area generally bounded by No. 3 Road, Sea Island Way, Sexsmith Road, and Capstan Way from "Single Detached (RS1/F)" to "Residential/Limited Commercial and Artist Residential Tenancy Studio Units (ZMU25) - Capstan Village (City Centre)" and "School & Institutional Use (SI)." The rezoning bylaw was adopted by Council on December 17, 2014.

For Phases 1 and 2, the developer entered into three Housing Agreements to secure a total of 23 affordable housing units and 17 Artist Residential Tenancy Studio (ARTS) units, including 11 affordable housing units (Bylaw No. 9162) in Phase 1 and 12 affordable housing units (Bylaw No. 9772) in Phase 2. At build-out of all four phases, the developer must provide a final total of five per cent of the total residential floor area for affordable housing units. As the rezoning

application was received prior to July 24, 2017, it is subject to grandfathering of the five per cent affordable housing contribution rate.

A Zoning Text Amendment for 3208 Carscallen Road (Area C) and 3211 Carscallen Road (Area D) (ZT 18-827860), seeking to transfer the developer’s required affordable housing contribution from 3211 Carscallen Road (Area D) to 3208 Carscallen Road (Area C) went to Public Hearing on December 16, 2019 and has received third reading. This resulted in a total of 3,007 m² (32,367ft²) to be delivered in Area C, comprising of approximately five per cent of the combined total floor area of Area C and Area D. The registration of a Housing Agreement and Housing Covenant are conditions of Development Permit (DP 18-821292) issuance, which secures 41 affordable housing units with maximum rental rates and tenant income as established by the City’s Affordable Housing Strategy.

It is recommended that the proposed Housing Agreement Bylaw for the subject development (Bylaw No. 10036) be introduced and given first, second and third reading. Following adoption of the Bylaw, the City will be able to execute the Housing Agreement and arrange for notice of the agreement to be filed in the Land Title Office.

Analysis

The subject development application involves the development of approximately 322 residential units in Areas C and D including 41 affordable rental housing units in Area C. The 41 affordable housing units proposed represent approximately five per cent of the total combined residential floor area of Area C and Area D. Twenty-three of these units will be family-friendly, two and three-bedroom units and the remaining 18 units will be studio and one-bedroom units. The 41 affordable housing units will be dispersed throughout the first five floors of the building in Area C.

The affordable housing units anticipated to be delivered are as follows:

Unit Type	Number of Units	Minimum Unit Area	Maximum Monthly Unit Rent*	Total Maximum Household Income*
Studio	2	37 m ² (400 ft ²)	\$811	\$34,650 or less
1-Bedroom	16	50 m ² (535 ft ²)	\$975	\$38,250 or less
2-Bedroom	9	69 m ² (741 ft ²)	\$1,218	\$46,800 or less
3-Bedroom	14	91 m ² (980 ft ²)	\$1,480	\$58,050 or less
TOTAL	41	N/A	N/A	N/A

*To be adjusted annually based on the terms of the Housing Agreement.

The Housing Agreement restricts the annual household incomes and maximum rents for eligible occupants and specifies that the units must be made available at affordable rental housing rates in perpetuity. The Agreement includes provisions for annual adjustment of the maximum annual housing incomes and rental rates in accordance with City requirements. In addition, the Agreement restricts the owner from imposing any age-based restrictions on the tenants of the affordable housing units.

The Agreement specifies that occupants of the affordable rental housing units shall have the same access to all residential indoor and outdoor amenity spaces available to other (market) residents of the building in which affordable rental housing units are contained. The Agreement further specifies that no fees or charges be imposed for the use of affordable housing parking spaces and indoor and outdoor common areas (e.g. visitor parking and bike storage). Affordable housing tenants will not be charged any additional costs over and above their rent (i.e. move in/move out or parking fees). To ensure that the Owner is managing the affordable housing units according to the terms outlined in the Housing Agreement, the Agreement permits the City to conduct a statutory declaration process no more than once a year. Through this process, the City tracks the occupied affordable housing units and ensures that they are rented to eligible tenants at the permitted rental rates. Should the owner choose to sell the affordable housing units, the Housing Agreement requires that units be sold in groupings of nine, which would allow for a potential non-profit to purchase and manage the units.

The applicant has agreed to the terms and conditions of the Housing Agreement and to register notice of the Housing Agreement on title to 3208 Carscallen Road to secure the 41 affordable rental units.

Given that all the affordable rental units required for Areas C and D will be contained in Area C, no housing agreement or housing covenant are required in connection with Area D.

Financial Impact

None.

Conclusion

In accordance with the *Local Government Act* (Section 483), adoption of Bylaw No. 10036 is required to permit the City to enter into a Housing Agreement. Together with the Housing Covenant, this will act to secure 41 affordable rental units that are proposed in association with Rezoning Application RZ 12-610011.



Cody Spencer
Program Manager, Affordable Housing
(604-247-4916)

Att. 1: Map of 3208 Carscallen Road



Housing Agreement (3208 Carscallen Road)
Bylaw No. 10036

The Council of the City of Richmond enacts as follows:

- 1. The Mayor and City Clerk for the City of Richmond are authorized to execute and deliver a housing agreement, substantially in the form set out as Schedule A to this Bylaw, with the owner of the lands legally described as:

PID: 029-462-941 Lot 3, Section 28, Block 5 North, Range 6 West, New Westminster District, Plan EPP43707

- 2. This Bylaw is cited as Housing Agreement (3208 Carscallen Road) Bylaw No. 10036.

FIRST READING

SECOND READING

THIRD READING

ADOPTED

Four horizontal lines for signature or stamp.

CITY OF RICHMOND
APPROVED for content by originating dept.
APPROVED for legality by Solicitor

MAYOR

CORPORATE OFFICER

Schedule A

To Housing Agreement (3208 Carscallen Road) Bylaw No. 10036.

HOUSING AGREEMENT AMONG PINNACLE LIVING (CAPSTAN VILLAGE FOUR)
LIMITED PARTNERSHIP (beneficial owner), PINNACLE LIVING (CAPSTAN VILLAGE)
LANDS INC. (registered owner) AND THE CITY OF RICHMOND

HOUSING AGREEMENT – AFFORDABLE HOUSING
(Section 483 Local Government Act)

THIS AGREEMENT is dated for reference July _____, 2020,

AMONG:

PINNACLE LIVING (CAPSTAN VILLAGE FOUR) LIMITED PARTNERSHIP, a limited partnership duly formed under the laws of the Province of British Columbia and having its registered office at Suite 300-911 Homer Street, Vancouver, BC V6B 2W6, by its general partner **PINNACLE LIVING (CAPSTAN VILLAGE FOUR) GP PLAZA INC.**, a corporation duly incorporated under the laws of the Province of British Columbia and having its registered office at Suite 300-911 Homer Street, Vancouver, BC V6B 2W6

(the “**Beneficiary**”)

AND:

PINNACLE LIVING (CAPSTAN VILLAGE) LANDS INC., a company duly incorporated under the laws of the Province of British Columbia and having its registered office at Suite 300-911 Homer Street, Vancouver, BC V6B 2W6

(the “**Nominee**”)

(the Beneficiary and the Nominee are, together, the “**Owner**” as more fully defined in section 1.1 of this Agreement)

AND:

CITY OF RICHMOND, a municipal corporation pursuant to the *Local Government Act* and having its offices at 6911 No. 3 Road, Richmond, British Columbia, V6Y 2C1

(the “**City**” as more fully defined in section 1.1 of this Agreement)

WHEREAS:

- A. Section 483 of the *Local Government Act* permits the City to enter into and, by legal notation on title, note on title to lands, housing agreements which may include, without limitation, conditions in respect to the form of tenure of housing units, availability of housing units to classes of persons, administration of housing units and rent which may be charged for housing units;

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Housing Agreement (Section 483 Local Government Act)
3208 Carscallen Road
Application No. RZ 12-610011/DP 18-821292/ZT 18-827860

- B. The Beneficiary is the only beneficial owner of the Lands and the Nominee is the registered owner of the Lands; and
- C. The Owner and the City wish to enter into this Agreement to provide for affordable housing on the terms and conditions set out in this Agreement,

In consideration of \$10.00 and other good and valuable consideration (the receipt and sufficiency of which is acknowledged by both parties), and in consideration of the promises exchanged below, the Owner and the City covenant and agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following words have the following meanings:

- (a) **“Affordable Housing Strategy”** means the Richmond Affordable Housing Strategy approved by the City on March 12, 2018, and containing a number of recommendations, policies, directions, priorities, definitions and annual targets for affordable housing, as may be updated, amended or replaced from time to time;
- (b) **“Affordable Housing Unit”** means a Dwelling Unit or Dwelling Units designated as such in accordance with a building permit and/or development permit issued by the City and/or, if applicable, in accordance with any rezoning consideration applicable to the development on the Lands and includes, without limiting the generality of the foregoing, the Dwelling Units charged by this Agreement;
- (c) **“Agreement”** means this agreement together with all schedules, attachments and priority agreements attached hereto;
- (d) **“Building Permit”** means the building permit authorizing construction on the Lands, or any portion(s) thereof;
- (e) **“City”** means the City of Richmond;
- (f) **“City Solicitor”** means the individual appointed from time to time to be the City Solicitor of the Law Division of the City, or his or her designate;
- (g) **“CPI”** means the All-Items Consumer Price Index for Vancouver, B.C. published from time to time by Statistics Canada, or its successor in function;
- (h) **“Daily Amount”** means \$100.00 per day as of January 1, 2020 adjusted annually thereafter by adding thereto an amount calculated by multiplying \$100.00 by the percentage change in the CPI since January 1, 2020, to January 1 of the year that a written notice is delivered to the Owner by the City pursuant to section 6.1 of this Agreement. In the absence of obvious error or mistake, any calculation by the City of the Daily Amount in any particular year will be final and conclusive;

- (i) **“Development”** means the residential development to be constructed on the Lands;
- (j) **“Development Permit”** means the development permit authorizing development on the Lands, or any portion(s) thereof;
- (k) **“Dwelling Unit”** means a residential dwelling unit or units located or to be located on the Lands whether those dwelling units are lots, strata lots or parcels, or parts or portions thereof, and includes single family detached dwellings, duplexes, townhouses, auxiliary residential dwelling units, rental apartments and strata lots in a building strata plan;
- (l) **“Eligible Tenant”** means a Family having a cumulative gross annual income of:
 - (i) in respect to a studio unit, \$34,650.00 or less;
 - (ii) in respect to a one-bedroom unit, \$38,250.00 or less;
 - (iii) in respect to a two-bedroom unit, \$46,800.00 or less; and
 - (iv) in respect to a three or more bedroom unit, \$58,050.00 or less,

provided that, commencing January 1, 2020, the annual incomes set-out above will be adjusted annually on January 1st of each year this Agreement is in force and effect, by a percentage equal to the percentage of the increase in the CPI for the period January 1 to December 31 of the immediately preceding calendar year. If there is a decrease in the CPI for the period January 1 to December 31 of the immediately preceding calendar year, the annual incomes set-out above for the subsequent year will remain unchanged from the previous year. In the absence of obvious error or mistake, any calculation by the City of an Eligible Tenant’s permitted income in any particular year will be final and conclusive;

- (m) **“Family”** means:
 - (i) a person;
 - (ii) two or more persons related by blood, marriage or adoption; or
 - (iii) a group of not more than 6 persons who are not related by blood, marriage or adoption;
- (n) **“GST”** means the Goods and Services Tax levied pursuant to the *Excise Tax Act*, R.S.C., 1985, c. E-15, as may be replaced or amended from time to time;
- (o) **“Housing Covenant”** means the agreements, covenants and charges granted by the Owner to the City (which includes covenants pursuant to section 219 of the *Land Title Act*) charging the Lands from time to time, in respect to the use and transfer of the Affordable Housing Units;

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- (p) **“Interpretation Act”** means the *Interpretation Act*, R.S.B.C. 1996, Chapter 238, together with all amendments thereto and replacements thereof;
- (q) **“Land Title Act”** means the *Land Title Act*, R.S.B.C. 1996, Chapter 250, together with all amendments thereto and replacements thereof;
- (r) **“Lands”** means the lands and premises legally described as follows Parcel Identifier: 029-462-941, Lot 3, Section 28, Block 5 North, Range 6 West, New Westminster District, Plan EPP43707, including a building or a portion of a building, into which said lands are Subdivided;
- (s) **“Local Government Act”** means the *Local Government Act*, R.S.B.C. 2015, Chapter 1, together with all amendments thereto and replacements thereof;
- (t) **“LTO”** means the New Westminster Land Title Office or its successor;
- (u) **“Owner”** means the party described on page 1 of this Agreement as the Owner and any subsequent owner of the Lands or of any part into which the Lands are Subdivided, and includes any person who is a registered owner in fee simple of an Affordable Housing Unit from time to time;
- (v) **“Permitted Rent”** means no greater than:
 - (i) \$811.00 (exclusive of GST) a month for a studio unit;
 - (ii) \$975.00 (exclusive of GST) a month for a one-bedroom unit;
 - (iii) \$1,218.00 (exclusive of GST) a month for a two-bedroom unit; and
 - (iv) \$1,480.00 (exclusive of GST) a month for a three (or more) bedroom unit,

provided that, commencing January 1, 2020, the rents set-out above will be adjusted annually on January 1st of each year this Agreement is in force and effect, by a percentage equal to the percentage of the increase in the CPI for the period January 1 to December 31 of the immediately preceding calendar year. In the event that, in applying the values set-out above, the rental increase is at any time greater than the rental increase permitted by the *Residential Tenancy Act*, then the increase will be reduced to the maximum amount permitted by the *Residential Tenancy Act*. If there is a decrease in the CPI for the period January 1 to December 31 of the immediately preceding calendar year, the permitted rents set-out above for the subsequent year will remain unchanged from the previous year. In the absence of obvious error or mistake, any calculation by the City of the Permitted Rent in any particular year will be final and conclusive;
- (w) **“Real Estate Development Marketing Act”** means the *Real Estate Development Marketing Act*, S.B.C. 2004, Chapter 41, together with all amendments thereto and replacements thereof;

- (x) **“Residential Tenancy Act”** means the *Residential Tenancy Act*, S.B.C. 2002, Chapter 78, together with all amendments thereto and replacements thereof;
- (y) **“Strata Property Act”** means the *Strata Property Act* S.B.C. 1998, Chapter 43, together with all amendments thereto and replacements thereof;
- (z) **“Subdivide”** means to divide, apportion, consolidate or subdivide the Lands, or the ownership or right to possession or occupation of the Lands into two or more lots, strata lots, parcels, parts, portions or shares, whether by plan, descriptive words or otherwise, under the *Land Title Act*, the *Strata Property Act*, or otherwise, and includes the creation, conversion, organization or development of “cooperative interests” or “shared interest in land” as defined in the *Real Estate Development Marketing Act*;
- (aa) **“Tenancy Agreement”** means a tenancy agreement, lease, license or other agreement granting rights to occupy an Affordable Housing Unit; and
- (bb) **“Tenant”** means an occupant of an Affordable Housing Unit by way of a Tenancy Agreement.

1.2 In this Agreement:

- (a) reference to the singular includes a reference to the plural, and *vice versa*, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (e) any reference to any enactment is to the enactment in force on the date the Owner signs this Agreement, and to subsequent amendments to or replacements of the enactment;
- (f) the provisions of section 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (g) time is of the essence;
- (h) all provisions are to be interpreted as always speaking;
- (i) reference to a “party” is a reference to a party to this Agreement and to that party’s respective successors, assigns, trustees, administrators and receivers.

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Wherever the context so requires, reference to a “party” also includes an Eligible Tenant, agent, officer and invitee of the party;

- (j) reference to a “day”, “month”, “quarter” or “year” is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided; and
- (k) where the word “including” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “including”.

ARTICLE 2
USE AND OCCUPANCY OF AFFORDABLE HOUSING UNITS

- 2.1 The Owner agrees that each Affordable Housing Unit may only be used as a permanent residence occupied by one Eligible Tenant at Permitted Rent. An Affordable Housing Unit must not be occupied by the Owner, the Owner’s family members (unless the Owner’s family members qualify as Eligible Tenants), or any tenant or guest of the Owner, other than an Eligible Tenant. For the purposes of this Article, “permanent residence” means that the Affordable Housing Unit is used as the usual, main, regular, habitual, principal residence, abode or home of the Eligible Tenant.
- 2.2 Within 30 days after receiving notice from the City, the Owner will, in respect of each Affordable Housing Unit, provide to the City a statutory declaration, substantially in the form (with, in the City Solicitor’s discretion, such further amendments or additions as deemed necessary) attached as Schedule A, sworn by the Owner (or in the case of a corporate owner the director, officer or authorized signatory of the Owner), containing all of the information required to complete the statutory declaration. The City may request such statutory declaration in respect to each Affordable Housing Unit no more than once in any calendar year; provided, however, notwithstanding that the Owner may have already provided such statutory declaration in the particular calendar year, the City may request and the Owner will provide to the City such further statutory declarations as requested by the City in respect to an Affordable Housing Unit if the City reasonably believes that the Owner is in breach of any of its obligations under this Agreement.
- 2.3 The Owner hereby irrevocably authorizes the City to make such inquiries as it considers necessary in order to confirm that the Owner is complying with this Agreement.
- 2.4 The Owner agrees that notwithstanding that the Owner may otherwise be entitled, the Owner will not:
 - (a) be issued with a Development Permit unless the Development Permit includes the Affordable Housing Units;
 - (b) be issued with a Building Permit unless the Building Permit includes the Affordable Housing Units; and

- (c) request final inspection permitting occupancy, nor occupy, nor permit any person to occupy any Dwelling Unit or any portion of any building, in part or in whole, constructed on the Lands and the City will not be obligated to carry out the final inspection permitting occupancy, or to permit occupancy of any Dwelling Unit or building constructed on the Lands, until all of the following conditions are satisfied:
 - (i) the Affordable Housing Units and related uses and areas have been constructed to the satisfaction of the City;
 - (ii) the Affordable Housing Units have received final building permit inspection granting occupancy; and
 - (iii) the Owner is not otherwise in breach of any of its obligations under this Agreement or any other agreement between the City and the Owner in connection with the development of the Lands.

If and to the extent that the Housing Covenant contemplates staged construction and occupancy of the Affordable Housing Units, the Housing Covenant will govern.

ARTICLE 3 DISPOSITION AND ACQUISITION OF AFFORDABLE HOUSING UNITS

- 3.1 The Owner will not permit an Affordable Housing Unit to be subleased, or the Affordable Housing Unit Tenancy Agreement to be assigned, except as required under the *Residential Tenancy Act*.
- 3.2 The Owner will not permit an Affordable Housing Unit to be used for short term rental purposes (being rentals for periods shorter than 30 days), or any other purposes that do not constitute a “permanent residence” of a Tenant or an Eligible Tenant.
- 3.3 If this Housing Agreement encumbers more than one Affordable Housing Unit, the following will apply:
 - (a) the Owner will not, without the prior written consent of the City, sell or transfer less than nine (9) Affordable Housing Units located in one building in a single or related series of transactions, with the result that when the purchaser or transferee of the Affordable Housing Units becomes the owner, the purchaser or transferee will be the legal and beneficial owner of not less than nine (9) Affordable Housing Units in one building;
 - (b) if the Development contains one or more air space parcels, each air space parcel and the remainder will be a “building” for the purposes of this Agreement; and

- (c) the Lands will not be Subdivided such that one or more Affordable Housing Units form their own air space parcel, separate from other Dwelling Units, without the prior written consent of the City.

3.4 Subject to the requirements of the *Residential Tenancy Act*, the Owner will ensure that each Tenancy Agreement:

- (a) includes the following provision:

“By entering into this Tenancy Agreement, the Tenant hereby consents and agrees to the collection of the below-listed personal information by the Landlord and/or any operator or manager engaged by the Landlord and the disclosure by the Landlord and/or any operator or manager engaged by the Landlord to the City and/or the Landlord, as the case may be, of the following personal information which information will be used by the City to verify and ensure compliance by the Owner with the City’s strategy, policies and requirements with respect to the provision and administration of affordable housing within the municipality and for no other purpose, each month during the Tenant’s occupation of the Affordable Housing Unit:

- (i) a statement of gross annual income from all sources (including employment, disability, retirement, investment, and other) of all members of the Tenant’s household who are 18 years of age and over and who reside in the Affordable Housing Unit;
- (ii) number of occupants of the Affordable Housing Unit;
- (iii) number of occupants of the Affordable Housing Unit 18 years of age and under; and
- (iv) number of occupants of the Affordable Housing Unit 55 years of age and over.”

- (b) defines the term “Landlord” as the Owner of the Affordable Housing Unit; and

- (c) includes a provision requiring the Tenant and each permitted occupant of the Affordable Housing Unit to comply with this Agreement.

3.5 If the Owner sells or transfers the Affordable Housing Units (pursuant to section 3.3), the Owner will notify the City Solicitor of the sale or transfer within 3 days of the effective date of sale or transfer.

3.6 The Owner will not rent, lease, license or otherwise permit occupancy of any Affordable Housing Unit except to an Eligible Tenant and except in accordance with the following additional conditions:

- (a) the Affordable Housing Unit will be used or occupied only pursuant to a Tenancy Agreement;

- (b) the monthly rent payable for the Affordable Housing Unit will not exceed the Permitted Rent applicable to that class of Affordable Housing Unit;
- (c) the Owner will allow the Tenant and any permitted occupant and visitor to have full access to and use and enjoy all on-site common indoor and outdoor amenity spaces that are available to the owners of the residential strata lots contained within the same building as the Affordable Housing Unit, including guest suites;
- (d) the Owner will not require the Tenant or any permitted occupant to pay any of the following:
 - (i) move-in/move-out fees;
 - (ii) strata fees;
 - (iii) strata property contingency reserve fees;
 - (iv) any fees and charges for the use of parking spaces assigned for the exclusive use of the Affordable Housing Unit;
 - (v) any fees and charges for the use of any indoor or outdoor common property, limited common property, or other common areas, facilities or amenities, including without limitation guest suites (except as set out in paragraph (x), below), parking, bicycle storage, electric vehicle charging stations or related facilities;
 - (vi) any fees and charges for the use of sanitary sewer, storm sewer, water; or
 - (vii) property or similar tax;

provided, however, that if the Affordable Housing Unit is a strata unit and the following costs are not part of strata or similar fees, the Owner may charge the Tenant the Owner's cost, if any, of:

- (viii) providing cable television, telephone, other telecommunications, or electricity fees (including electricity fees and charges associated with the Tenant's use of electrical vehicle and/or bicycle charging infrastructure);
- (ix) installing electric vehicle and/or bicycle charging infrastructure (in excess of that pre-installed by the Owner at the time of construction of the building), by or on behalf of the Tenant; and
- (x) security and fees for the use of guest suites (if any), provided that such charges are the same as payable by other residential occupants of the building in which the Affordable Housing Units are located;

- (e) subject to any contrary provisions in the *Residential Tenancy Act*, the Owner will include in the Tenancy Agreement a clause entitling the Owner to terminate the Tenancy Agreement if:
 - (i) an Affordable Housing Unit is occupied by a person or persons other than an Eligible Tenant;
 - (ii) the annual income of an Eligible Tenant rises above the applicable maximum amount specified in section 1.1(l) of this Agreement;
 - (iii) the Affordable Housing Unit is occupied by more than the number of people the City's building inspector determines can reside in the Affordable Housing Unit given the number and size of bedrooms in the Affordable Housing Unit and in light of any relevant standards set by the City in any bylaws of the City;
 - (iv) the Affordable Housing Unit remains vacant for three consecutive months or longer, notwithstanding the timely payment of rent; or
 - (v) the Tenant subleases the Affordable Housing Unit or assigns the Tenancy Agreement in whole or in part,

and in the case of each breach, subject to any contrary provisions in the *Residential Tenancy Act*, the Owner hereby agrees with the City to forthwith provide to the Tenant a notice of termination. Except for paragraph (e)(ii), above [*Termination of Tenancy Agreement if Annual Income of Tenant rises above amount prescribed in section 1.1(l) of this Agreement*], the notice of termination will provide that the termination of the tenancy will be effective two months following the date of the notice of termination. In respect to paragraph (e)(ii), above, termination will be effective on the day that is six months following the date that the Owner provided the notice of termination to the Tenant;

- (f) the Tenancy Agreement will identify all occupants of the Affordable Housing Unit and will stipulate that anyone not identified in the Tenancy Agreement will be prohibited from residing at the Affordable Housing Unit for more than 30 consecutive days or more than 45 days total in any calendar year; and
- (g) the Owner will forthwith deliver a certified true copy of the Tenancy Agreement to the City upon demand.

3.7 The Owner will not impose any age-based restrictions on Tenants of Affordable Housing Units.

3.8 The Owner will include in the Tenancy Agreement a clause requiring the Tenant and each permitted occupant of the Affordable Housing Unit to comply with this Agreement. This requirement will not lessen the Owner's obligations under this Agreement, or be deemed a delegation of the Owner's obligations under this Agreement.

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- 3.9 The Owner will attach a copy of this Agreement to every Tenancy Agreement.
- 3.10 If the Owner has terminated the Tenancy Agreement, then the Owner will use commercially reasonable efforts to cause the Tenant and all other persons that may be in occupation of the Affordable Housing Unit, as applicable, to vacate the Affordable Housing Unit on or before the effective date of termination.

ARTICLE 4
DEMOLITION OF AFFORDABLE HOUSING UNIT

- 4.1 The Owner will not demolish an Affordable Housing Unit unless:
- (a) the Owner has obtained the written opinion of a professional engineer or architect who is at arm's length to the Owner that it is no longer reasonable or practical to repair or replace any structural component of the Affordable Housing Unit, and the Owner has delivered to the City a copy of the engineer's or architect's report; or
 - (b) the Owner has obtained the written opinion of a professional engineer or architect who is at arm's length to the Owner that the Affordable Housing Unit is damaged or destroyed, to the extent of 40% or more of its value above its foundations,

and, in each case, a demolition permit for the Affordable Housing Unit, as applicable, has been issued by the City and the Affordable Housing Unit, as applicable, has been demolished under that permit.

Following demolition, the Owner will use and occupy any replacement Dwelling Unit in compliance with this Agreement and the Housing Covenant both of which will apply to any replacement Dwelling Unit to the same extent and in the same manner as those agreements apply to the original Dwelling Unit, and the Dwelling Unit must be approved by the City as an Affordable Housing Unit in accordance with this Agreement.

ARTICLE 5
STRATA CORPORATION BYLAWS

- 5.1 This Agreement will be binding upon all strata corporations created upon the strata title Subdivision of the Lands or any Subdivided parcel of the Lands.
- 5.2 Any strata corporation bylaw which prevents, restricts or abridges the right to use the Affordable Housing Units as affordable rental accommodation, imposes age-based restrictions on Tenants of Affordable Housing Units, or is otherwise inconsistent with this Agreement, will have no force and effect.
- 5.3 No strata corporation will pass any bylaws preventing, restricting or abridging the use of the Affordable Housing Units as affordable rental accommodation in accordance with this Agreement.

- 5.4 No strata corporation will pass any bylaw or approve any levies which would result in only the Owner or the Tenant or any other permitted occupant of an Affordable Housing Unit (and not include all the owners, tenants, or any other permitted occupants of all the strata lots in the applicable strata plan which are not Affordable Housing Units) paying any extra charges or fees for the use of any common property, limited common property or other common areas, facilities, or indoor or outdoor amenities of the strata corporation contrary to section 3.6(d).
- 5.5 No strata corporation will pass any bylaws or approve any levies, charges or fees which would result in the Owner or the Tenant or any other permitted occupant of an Affordable Housing Unit paying for the use of parking, bicycle storage, electric vehicle and/or bicycle charging stations or related facilities contrary to section 3.6(d). Notwithstanding the foregoing, the strata corporation may levy parking, bicycle storage, electric vehicle and/or bicycle charging stations or other related facilities charges or fees on all the other owners, tenants, any other permitted occupants or visitors of all the strata lots in the applicable strata plan which are not Affordable Housing Units. For greater certainty, electricity fees and charges associated with the Owner or the Tenant's use of electrical vehicle and/or bicycle charging infrastructure are excluded from this provision.
- 5.6 The strata corporation will not pass any bylaw or make any rule which would restrict the Owner or the Tenant or any other permitted occupant of an Affordable Housing Unit from using and enjoying any common property, limited common property or other common areas, facilities or amenities of the strata corporation, including parking, bicycle storage, electric vehicle and/or bicycle charging stations or related facilities, except on the same basis that governs the use and enjoyment of these facilities by all the owners, tenants, or any other permitted occupants of all the strata lots in the same strata plan as the Affordable Housing Unit.

ARTICLE 6 DEFAULT AND REMEDIES

- 6.1 The Owner agrees that, in addition to any other remedies available to the City under this Agreement or the Housing Covenant or at law or in equity, if:
- (a) an Affordable Housing Unit is used or occupied in breach of this Agreement or rented at a rate in excess of the Permitted Rent; or
 - (b) the Owner is otherwise in breach of any of its obligations under this Agreement or the Housing Covenant,

then the Owner will pay the Daily Amount to the City for every day that the breach continues after 45 days written notice from the City to the Owner stating the particulars of the breach. For greater certainty, the City is not entitled to give written notice with respect to any breach of the Agreement until any applicable cure period, if any, has expired. The Daily Amount is due and payable five business days following receipt by the Owner of an invoice from the City for the same.

- 6.2 The Owner acknowledges and agrees that a default by the Owner of any of its promises, covenants, representations or warranties set out in the Housing Covenant will also constitute a default under this Agreement.

**ARTICLE 7
MISCELLANEOUS**

7.1 Housing Agreement

The Owner acknowledges and agrees that:

- (a) this Agreement includes a housing agreement entered into under section 483 of the *Local Government Act*;
- (b) where an Affordable Housing Unit is a separate legal parcel the City may file notice of this Agreement in the LTO against the title to the Affordable Housing Unit and, in the case of a strata corporation, may note this Agreement on the index of the common property of the strata corporation stored in the LTO and on title to all strata lots in the Development (including Affordable Housing Units and non-Affordable Housing Units);
- (c) where the Lands have not yet been Subdivided to create the separate parcels to be charged by this Agreement, the City may file a notice of this Agreement in the LTO against the title to the Lands;
- (d) if the Lands are Subdivided pursuant to the *Land Title Act* (including standard and air space parcels), this Agreement will secure only the legal parcels which contain the Affordable Housing Units. The City will partially discharge this Agreement accordingly, provided however that:
 - (i) the City has no obligation to execute such discharge until a written request therefor from the Owners is received by the City, which request includes the registrable form of discharge;
 - (ii) the cost of the preparation of the aforesaid discharge, and the cost of registration of the same in the Land Title Office is paid by the Owners;
 - (iii) the City has a reasonable time within which to execute the discharge and return the same to the Owners for registration; and
 - (iv) the Owners acknowledge that such discharge is without prejudice to the indemnity and release set forth in Section 7.5.

Notwithstanding a partial discharge of this Agreement, this Agreement will be and remain in full force and effect and, but for the partial discharge, otherwise unamended;

- (e) if the Lands, or a portion of the Lands, containing the Affordable Housing Units is Subdivided pursuant to the *Strata Property Act*, this Agreement will remain noted on the common property sheet of the strata corporation stored in the LTO and on title to all strata lots which are Affordable Housing Units; and
- (f) if the Lands, or a portion of the Lands, containing the Affordable Housing Units is Subdivided in any manner not contemplated in paragraph (d) or (e), this Agreement will remain on title to interests into which the Lands are subdivided.

7.2 **No Compensation**

The Owner acknowledges and agrees that no compensation is payable, and the Owner is not entitled to and will not claim any compensation from the City, for any decrease in the market value of the Lands or for any obligations on the part of the Owner and its successors in title which at any time may result directly or indirectly from the operation of this Agreement.

7.3 **Modification**

This Agreement may be modified or amended from time to time, by consent of the Owner and a bylaw duly passed by the Council of the City and thereafter if it is signed by the City and the Owner.

7.4 **Management**

The Owner will furnish good and efficient management of the Affordable Housing Units and will permit representatives of the City to inspect the Affordable Housing Units at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Affordable Housing Units in a good state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Lands. At the request of the City, the Owner will, at the Owner's expense, hire a person or company with the skill and expertise to manage the Affordable Housing Units.

7.5 **Indemnity**

The Owner will indemnify and save harmless the City and each of its elected officials, officers, directors, and agents, and their heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, actions, loss, damage, costs and liabilities, which all or any of them will or may be liable for or suffer or incur or be put to by reason of or arising out of:

- (a) any negligent act or omission of the Owner, or its officers, directors, agents, contractors or other persons for whom at law the Owner is responsible relating to this Agreement;

- (b) the City refusing to issue a development permit, building permit or refusing to permit occupancy of any building, or any portion thereof, constructed on the Lands;
- (c) the construction, maintenance, repair, ownership, lease, license, operation, management or financing of the Lands or any Affordable Housing Unit or the enforcement of any Tenancy Agreement; and/or
- (d) without limitation, any legal or equitable wrong on the part of the Owner or any breach of this Agreement by the Owner.

7.6 Release

The Owner hereby releases and forever discharges the City and each of its elected officials, officers, directors, and agents, and its and their heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of or which would or could not occur but for the:

- (a) construction, maintenance, repair, ownership, lease, license, operation or management of the Lands or any Affordable Housing Unit under this Agreement;
- (b) the City refusing to issue a development permit, building permit or refusing to permit occupancy of any building, or any portion thereof, constructed on the Lands; and/or
- (c) the exercise by the City of any of its rights under this Agreement or an enactment.

7.7 Survival

The obligations of the Owner set out in this Agreement will survive termination or discharge of this Agreement.

7.8 Priority

The Owner will do everything necessary, at the Owner's expense, to ensure that this Agreement, if required by the City Solicitor, will be noted against title to the Lands in priority to all financial charges and encumbrances which may have been registered or are pending registration against title to the Lands save and except those specifically approved in advance in writing by the City Solicitor or in favour of the City, and that a notice under section 483(5) of the *Local Government Act* will be filed on the title to the Lands.

7.9 City's Powers Unaffected

This Agreement does not:

- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Lands;
- (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
- (c) affect or limit any enactment relating to the use or subdivision of the Lands; or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Lands.

7.10 Agreement for Benefit of City Only

The Owner and the City agree that:

- (a) this Agreement is entered into only for the benefit of the City;
- (b) this Agreement is not intended to protect the interests of the Owner, any Tenant, or any future owner, lessee, occupier or user of the Lands or the building or any portion thereof, including any Affordable Housing Unit; and
- (c) the City may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.

7.11 No Public Law Duty

Where the City 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 City is under no public law duty of fairness or natural justice in that regard and agrees that the City may do any of those things in the same manner as if it were a private party and not a public body.

7.12 Notice

Any notice required to be served or given to a party herein pursuant to this Agreement will be sufficiently served or given if delivered, to the postal address of the Owner set out in the records at the LTO, and in the case of the City addressed:

To: Clerk, City of Richmond
6911 No. 3 Road
Richmond, BC V6Y 2C1

And to: City Solicitor
City of Richmond
6911 No. 3 Road
Richmond, BC V6Y 2C1

or to the most recent postal address provided in a written notice given by each of the parties to the other. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery.

7.13 Enuring Effect

This Agreement will extend to and be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.

7.14 Severability

If any provision of this Agreement is found to be invalid or unenforceable, such provision or any part thereof will be severed from this Agreement and the resultant remainder of this Agreement will remain in full force and effect.

7.15 Waiver

All remedies of the City will be cumulative and may be exercised by the City in any order or concurrently in case of any breach and each remedy may be exercised any number of times with respect to each breach. Waiver of or delay in the City exercising any or all remedies will not prevent the later exercise of any remedy for the same breach or any similar or different breach.

7.16 Sole Agreement

This Agreement, and any documents signed by the Owners contemplated by this Agreement (including, without limitation, the Housing Covenant), represent the whole agreement between the City and the Owner respecting the use and occupation of the Affordable Housing Units, and there are no warranties, representations, conditions or collateral agreements made by the City except as set forth in this Agreement. In the event of any conflict between this Agreement and the Housing Covenant, this Agreement will, to the extent necessary to resolve such conflict, prevail.

7.17 Further Assurance

Upon request by the City the Owner will forthwith do such acts and execute such documents as may be reasonably necessary in the opinion of the City to give effect to this Agreement.

7.18 Covenant Runs with the Lands

This Agreement burdens and runs with the Lands and every parcel into which it is Subdivided in perpetuity. All of the covenants and agreements contained in this

{00636353; 7 }

*Housing Agreement (Section 483 Local Government Act)
3208 Carscallen Road
Application No. RZ 12-610011/DP 18-821292/ZT 18-827860*

Agreement are made by the Owner for itself, its personal administrators, successors and assigns, and all persons who after the date of this Agreement, acquire an interest in the Lands.

7.19 Equitable Remedies

The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for any breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.

7.20 No Joint Venture

Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.

7.21 Applicable Law

Unless the context otherwise requires, the laws of British Columbia (including, without limitation, the *Residential Tenancy Act*) will apply to this Agreement and all statutes referred to herein are enactments of the Province of British Columbia.

7.22 Deed and Contract

By executing and delivering this Agreement the Owner intends to create both a contract and a deed executed and delivered under seal.

7.23 Joint and Several

If the Owner is comprised of more than one person, firm or body corporate, then the covenants, agreements and obligations of the Owner will be joint and several.

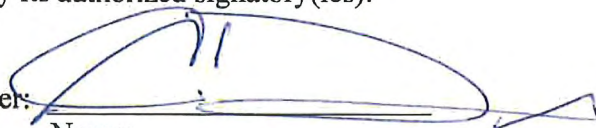
7.23 Limitation on Owner's Obligations

The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands provided however that notwithstanding that the Owner is no longer the registered owner of the Lands, the Owner will remain liable for breaches of this Agreement that occurred while the Owner was the registered owner of the Lands.

[Signature blocks follow]

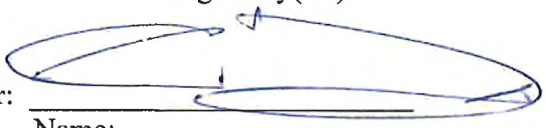
IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

PINNACLE LIVING (CAPSTAN VILLAGE FOUR) LIMITED PARTNERSHIP,
by its general partner
PINNACLE LIVING (CAPSTAN VILLAGE FOUR) GP PLAZA INC.,
by its authorized signatory(ies):

Per: 
Name:

Per: M. De Cuiis
Name:

PINNACLE LIVING (CAPSTAN VILLAGE) LANDS INC.,
by its authorized signatory(ies):

Per: 
Name:

Per: M. De Cuiis
Name:

CITY OF RICHMOND
by its authorized signatory(ies):

Per: _____
Malcolm D. Brodie, Mayor

Per: _____
Claudia Jesson, Corporate Officer

CITY OF RICHMOND
APPROVED for content by originating dept.
APPROVED for legality by Solicitor
DATE OF COUNCIL APPROVAL

Schedule A to Housing Agreement

**STATUTORY DECLARATION
(Affordable Housing Units)**

)	IN THE MATTER OF Unit Nos. _____ - _____
)	(collectively, the “Affordable Housing Units”) located
CANADA)	at
)	_____
PROVINCE OF BRITISH COLUMBIA)	(street address), British Columbia, and Housing
)	Agreement dated _____, 20____ (the
TO WIT:)	“Housing Agreement”) between
)	_____ and
)	the City of Richmond (the “City”)

I, _____ (full name),
of _____ (address) in the Province
of British Columbia, DO SOLEMNLY DECLARE that:

1. I am the registered owner (the “Owner”) of the Affordable Housing Units;
or,
 I am a director, officer, or an authorized signatory of the Owner and I have personal knowledge of the matters set out herein;
2. This declaration is made pursuant to the terms of the Housing Agreement in respect of the Affordable Housing Units for each of the 12 months for the period from January 1, 20____ to December 31, 20____ (the “Period”);
3. To the best of my knowledge, continuously throughout the Period:
 - a) the Affordable Housing Units, if occupied, were occupied only by Eligible Tenants (as defined in the Housing Agreement); and
 - b) the Owner of the Affordable Housing Units complied with the Owner’s obligations under the Housing Agreement and any housing covenant(s) registered against title to

the Affordable Housing Units;

- 4. To the best of my knowledge, the information set out in the table attached as Appendix A hereto (the “**Information Table**”) in respect of each of the Affordable Housing Units is current and accurate as of the date of this declaration; and
- 5. The tenancy agreements entered into between the Owner and the respective occupants of the Affordable Housing Units contains the prior written consent from each of the occupants of the Affordable Housing Units named in the Information Table to: (i) collect the information set out in the Information Table, as such information relates to the Affordable Housing Unit occupied by such occupant/resident; and (ii) disclose such information to the City, for purposes of complying with the terms of the Housing Agreement.

And I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE ME at _____)
 _____ in the)
 Province of British Columbia, Canada, this)
 _____ day of _____, 20____)
 _____)
 _____)
 A Notary Public and a Commissioner for)
 taking Affidavits in and for the Province of)
 British Columbia)

(Signature of Declarant)
 Name:

Declarations should be signed, stamped, and dated and witnessed by a lawyer, notary public, or commissioner for taking affidavits.

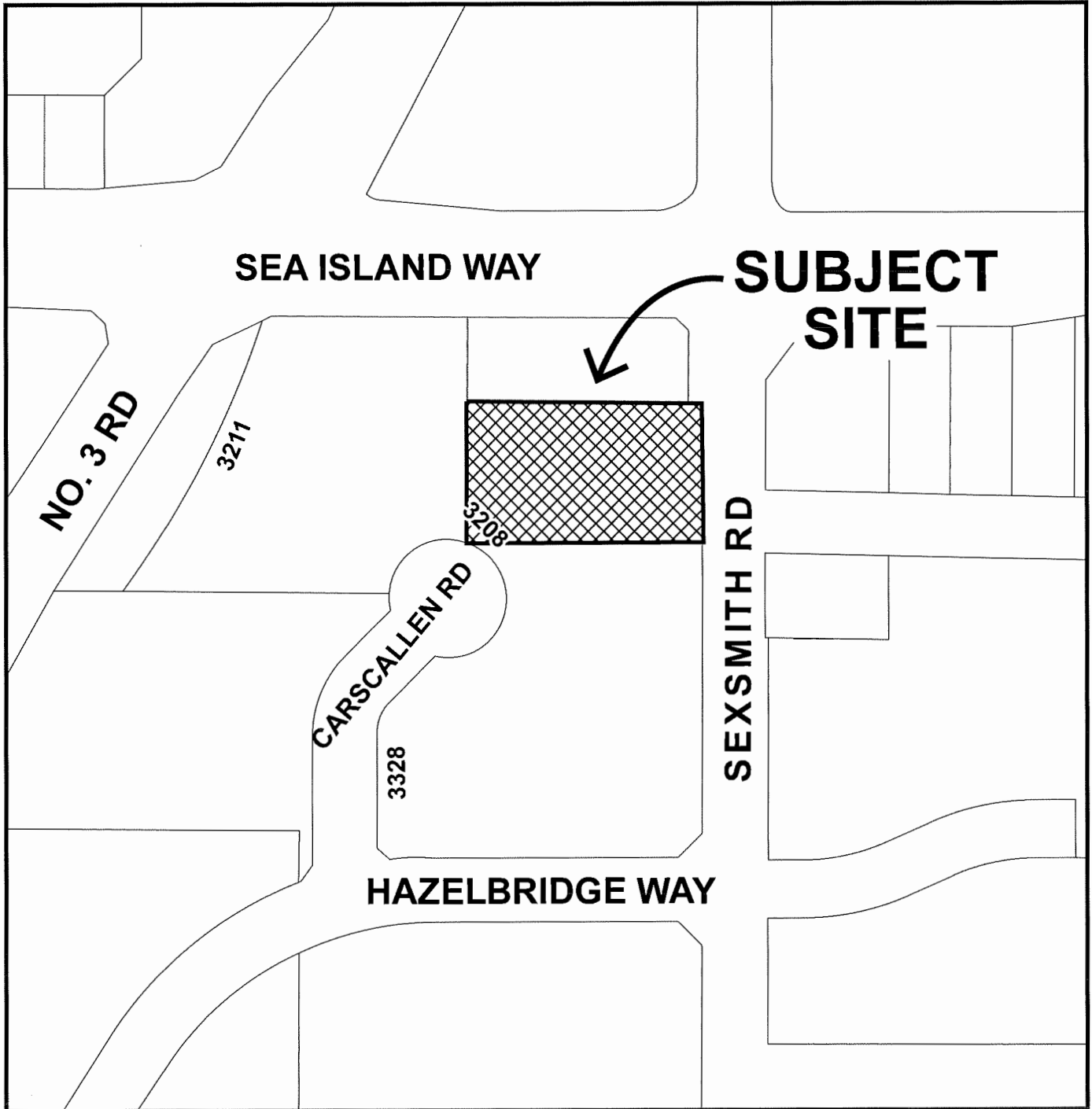
**APPENDIX A (to Statutory Declaration)
Information Table**

Development Name, Address, Property Manager, Phone #, E-mail															
Unit #	Unit Type	# of Occupants	Related to Owner	# of Occupants 18 Years and Under	# of Occupants 55 Years and Over	Before-tax Employment Income (if Tenant is 18+ Years)	Other Income (if Tenant is 18+ Years)	Income Verification Received	Before-tax (gross) Income of all Tenants	Monthly Rent	Planned % Rent Increase in the Next Year	Parking Fees	Move-In/Move-out Fees	Storage Fees	Amenity Usage Fees
1															
2															
3															
4															
5															

Document Number: 5960485 Version: 1



City of
Richmond



	<p>3208 Carscallen Road</p>	<p>Original Date: 07/13/20</p> <p>Note: Dimensions are in METRES</p>
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