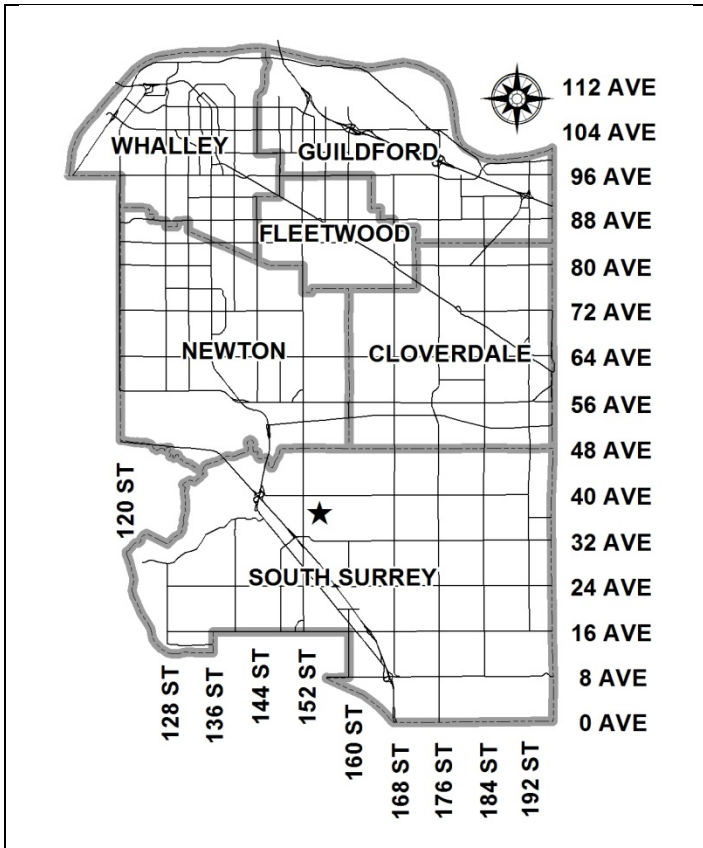


City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7917-0423-00

Planning Report Date: April 23, 2018



PROPOSAL:

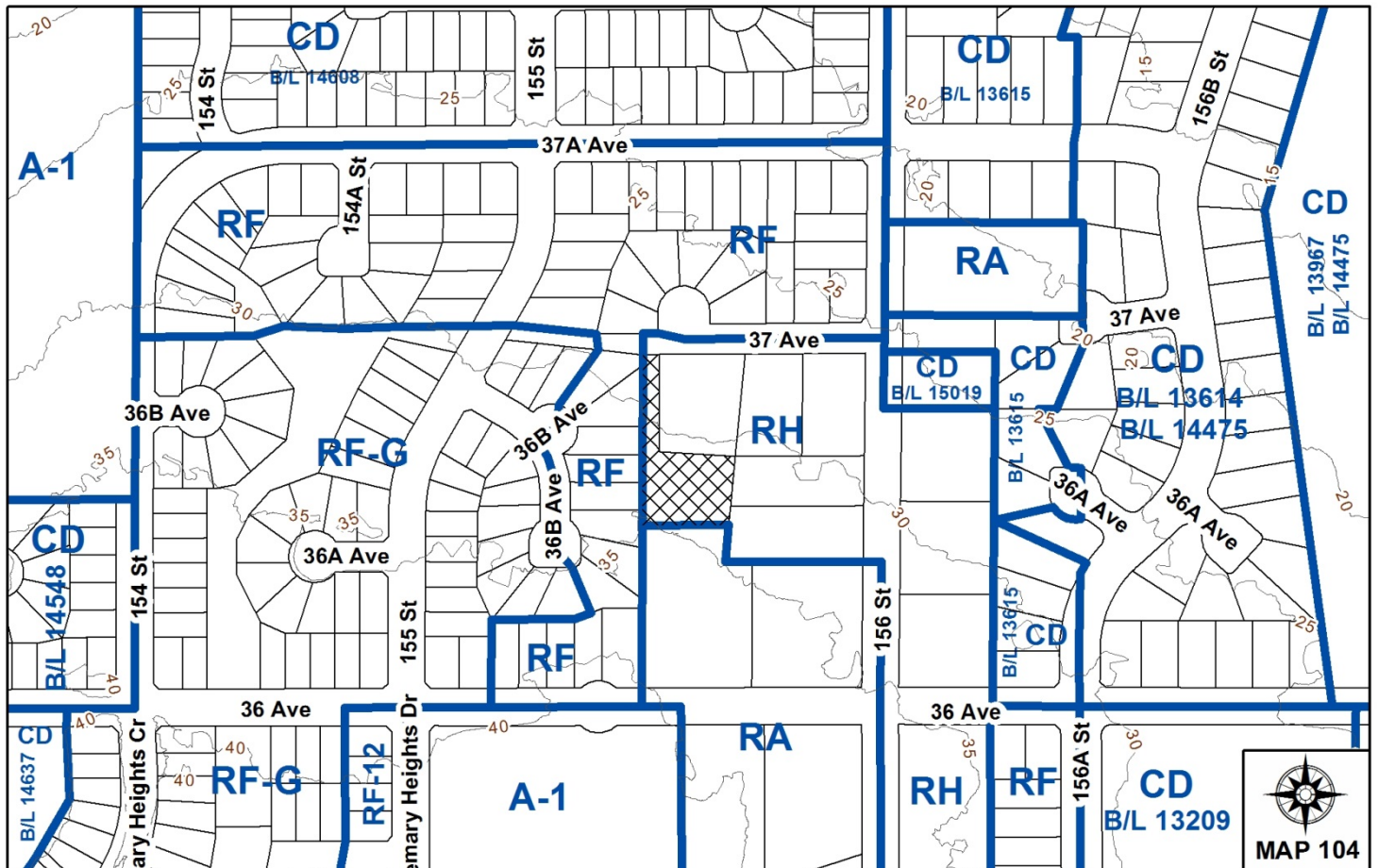
- **Restrictive Covenant Amendment**
 to allow construction of an in-ground swimming pool.

LOCATION: 15538 – 37 Avenue

ZONING: RH

OCP DESIGNATION: Suburban

NCP DESIGNATION: Suburban 1/4 Acre Residential



RECOMMENDATION SUMMARY

- Council approve the proposed amendment to Restrictive Covenant (RC) BX058577 to allow construction of an in-ground swimming pool within the Covenant Area.

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- None.

RATIONALE OF RECOMMENDATION

- Restrictive Covenant (RC) BX058577 sets out increased setbacks of 13 metres (43 ft.) from the south and east property lines, and 9 metres (30 ft.) from the west property line where no buildings, structures, or improvements can be located. The intent of the RC was to address concerns raised by neighbouring residents regarding loss of privacy from the creation of a panhandle lot.
- The proposed RC amendment will allow for an in-ground swimming pool to be sited in the rear yard of the subject property, within the covenant area.
- The proposed in-ground swimming pool will be well screened from neighbouring properties by an existing 3 metre (10 ft.) wide landscape buffer that is protected by a separate Restrictive Covenant.
- The subject property is located within the suburban pocket in the Rosemary Heights Central Neighbourhood Concept Plan (NCP) area. On March 7, 2018, Council approved an amendment to the NCP to redesignate a portion of the suburban pocket from Suburban ½ Acre Residential to Suburban ¼ Acre Residential. The subject property, along with the neighbouring properties to the north, south, and east were among those redesignated to Suburban ¼ Acre Residential, which will allow for increased density in the immediate area.
- With the amendment to the Rosemary Heights Central NCP, the context of the surrounding area is likely to change. The property at 15557 – 36 Avenue, immediately to the south of the subject property, in conjunction with the neighbouring property to the east at 15587 - 36 Avenue, is proposing to rezone and subdivide into nine (9) "Quarter Acre Residential Zone (RQ)" lots (Development Application No. 7914-0338-00).

RECOMMENDATION

The Planning & Development Department recommends that Council approve the proposed amendment to Restrictive Covenant (RC) BX058577 to allow for construction of an in-ground swimming pool in the location shown in Appendix II.

REFERRALS

Engineering: The Engineering Department has no objection to the project.

SITE CHARACTERISTICS

Existing Land Use: Single family dwelling

Adjacent Area:

| Direction | Existing Use | NCP Designation | Existing Zone |
|-----------|---|-----------------------------|---------------|
| North: | Single family dwelling | Suburban ¼ Acre Residential | RH |
| East: | Single family dwellings | Suburban ¼ Acre Residential | RH |
| South: | Single family dwelling (Application to develop into Quarter Acre (RQ) lots at Initial Review under File No. 7914-0338-00) | Suburban ¼ Acre Residential | RA |
| West: | Single family dwellings | Single Family Residential | RF |

DEVELOPMENT CONSIDERATIONSBackground and Current Proposal

- The subject property is a panhandle lot, located at 15538 – 37 Avenue. The property is zoned "Half-Acre Residential Zone (RH)", is designated "Suburban ¼ Acre Residential" in the Rosemary Heights Neighbourhood Concept Plan (NCP), and "Suburban" in the Official Community Plan (OCP).
- Restrictive Covenant (RC) BX058577 requires increased setbacks of 13 metres (43 ft.) from the rear (south) and east property line, and 9 metres (30 ft.) from the west property line where no buildings, structures, or improvements can be located. The RC was registered against title in October 2005, at the time the subject property was created through a rezoning and subdivision application (No. 7904-0057-00). The intent of the RC was to address resident concerns regarding loss of privacy from the creation of a panhandle lot.
- At the time of subdivision, an RC for a 3 metre (10 ft.) wide landscape buffer along the west, south, and east property lines was also registered on title.

- The applicant is proposing an amendment to RC BX058577 in order to allow for the construction of an in-ground swimming pool within the covenant area.

RESTRICTIVE COVENANT AMENDMENT EVALUATION

- The increased setbacks required under RC BX058577 were put in place to address concerns regarding loss of privacy that were raised by area residents at the time the subject property, a panhandle lot, was created through rezoning and subdivision (Development Application No. 7904-0057-00).
- In addition to the increased building setbacks, a 3 metre (10 ft.) landscape buffer was required along the west, south, and east property lines.
- The proposed in-ground swimming pool would be within the no build covenant area set out in RC BX058577, but would not encroach into the landscape buffer area, which is also protected by a separate restrictive covenant.
- The applicant has submitted an Arborist Report, which specifies that no trees are proposed to be removed in order to accommodate construction of the proposed swimming pool.
- The Arborist Report recommends that trees within proximity of the proposed swimming pool be protected with tree protection barriers. One Douglas Fir tree to the east of the proposed swimming pool location is recommended to have special protection measures in place, with excavation near the tree protection zone to be carried out under Arborist supervision.
- The applicant provided a letter of support from four surrounding residents for the amendment of the RC to allow for the construction of the proposed in-ground swimming pool.
- Additionally, the subject property is located within the suburban pocket in the Rosemary Heights Central NCP area. On March 7, 2018, Council approved an amendment to the NCP to redesignate a portion of the suburban pocket from Suburban ½ Acre Residential to Suburban ¼ Acre Residential. The subject property, along with the neighbouring properties to the north, south, and east were among those redesignated to Suburban ¼ Acre Residential, which will allow for increased density in the immediate area.
- With the amendment to the Rosemary Heights Central NCP, the context of the surrounding area is anticipated to change. The property at 15557 – 36 Avenue, immediately to the south of the subject property, in conjunction with the neighbouring property to the east at 15587 - 36 Avenue, is proposing to rezone and subdivide into nine (9) "Quarter Acre Residential Zone (RQ)" lots (Development Application No. 7914-0338-00).
- Staff are supportive of the proposed RC amendment, given the existing landscape buffer in place along the west, south, and east property lines that provides screening between the proposed pool and neighbouring properties, and due to the changing context of the suburban pocket within the Rosemary Heights Central NCP area, which now allows for increased densities.

PRE-NOTIFICATION

- Pre-notification letters were sent on November 6, 2017 to 86 residents within 100 metres (300 ft.) of the subject site and a Development Proposal Sign was installed on November 30, 2017.
- To date, staff have received comments from one household in the vicinity of the subject site in response to the public notification expressing the following concerns:
 - The Restrictive Covenant was put in place to mitigate concerns raised at the time the subject property was created through Development Application No. 7904-0054-00 for rezoning and subdivision.

(With the approval of amendments to the suburban pocket within the Rosemary Heights Central NCP, the context of the area is changing. Increased densities have already been proposed directly to the south of the subject property, under Development Application No. 7914-0338-00.)

- The pool would generate substantial noise, which would impact neighbouring properties.

(Swimming pools are an allowable accessory use in residential zones throughout the City and are subject to the provisions of the "Surrey Noise Control By-law, 1982, No. 7044" as amended.)

- A mature row of cedars planted to provide privacy along the western property line of the subject site could be negatively impacted by the construction of the pool in close proximity.

(The proposed swimming pool will be located approximately 15 metres (50 ft.) from the hedge along the western property line, well outside of the tree protection zone of the hedge. The one tree in close proximity to the proposed pool location will have special protection measures in place to mitigate potential impacts to this tree.)

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

- Appendix I. Lot Owners and Action Summary (Confidential)
- Appendix II. Proposed Site Plan

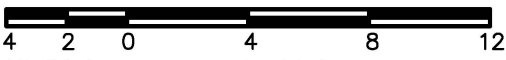
original signed by Ron Hintsche

Jean Lamontagne
General Manager
Planning and Development

APPENDIX I HAS BEEN
REMOVED AS IT CONTAINS
CONFIDENTIAL INFORMATION

**TOPOGRAPHIC AND TREE SURVEY PLAN OF LOT 2
DISTRICT LOT 244 GROUP 2 NWD PLAN BCP20281**

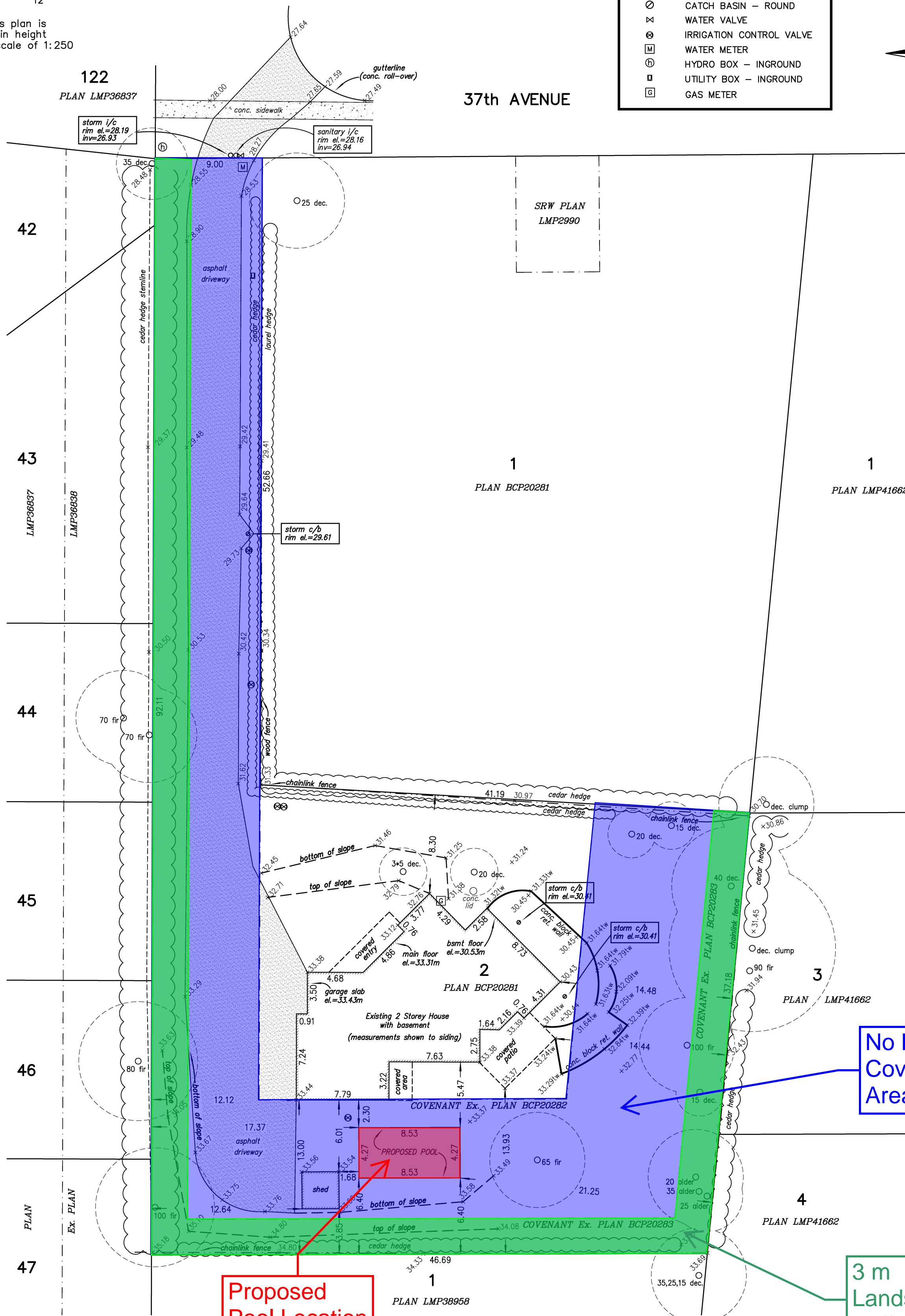
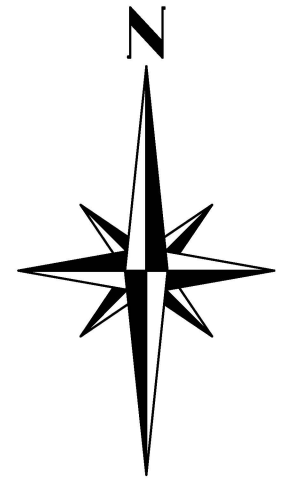
SCALE 1:250



All Distances are in Metres.
The intended plot size of this plan is 432mm in width by 560mm in height (C size) when plotted at a scale of 1:250

CIVIC ADDRESS:
15538 37th AVENUE
SURREY, B.C.
P.I.D.: 026-459-183

| SURVEY LEGEND | |
|---------------|--------------------------|
| ⊙ | CATCH BASIN - ROUND |
| ⊗ | WATER VALVE |
| ⊕ | IRRIGATION CONTROL VALVE |
| Ⓜ | WATER METER |
| Ⓜ | HYDRO BOX - INGROUND |
| Ⓜ | UTILITY BOX - INGROUND |
| Ⓜ | GAS METER |



No Build
Covenant
Area

Proposed
Pool
Location

3 m
Landscape
Buffer

- NOTES:**
- 1) Elevations are in metres and are geodetic. (CVD28/GVRD2005)
 - 2) Elevations are derived from OCM 92H0835, el.=5.009m located on the Southwest corner of Humberdale Avenue and 160th Street in gutter portion of rollover curb.
 - 3) This Plan was prepared for architectural design and site servicing purposes, and is for the exclusive use of our client. The signatory accepts no responsibility or liability for any damages that may be suffered by a third party as a result of reproduction, transmission or alteration to this document without consent of the signatory.
 - 4) Prior to any construction, underground services are to be confirmed by Municipal Engineering Dept.

- 5) If there is any conflict in information between the hard copy of this Plan and the digital data provided, the hard copy shall be taken to be correct. Any information taken from digital data shall be confirmed by information shown on the hard copy of this plan.
- 6) Tree diameters are taken at 1.4m above grade and are shown in cm. All trees 30cm and larger on project and any trees required by Surrey's Tree Preservation By-law are shown. Tree canopy locations are approximate and root protection zones should be determined by a qualified arborist.
- 7) Lot dimensions are derived from Plan BCP20281.

Certified correct, completed on the 30th day of January, 2018.

Underwater Land Surveying Ltd.
B.C. Land Surveyors
#104 - 5830 176 'A' Street
Cloverdale, B.C.
FILE: JS18-07_TP