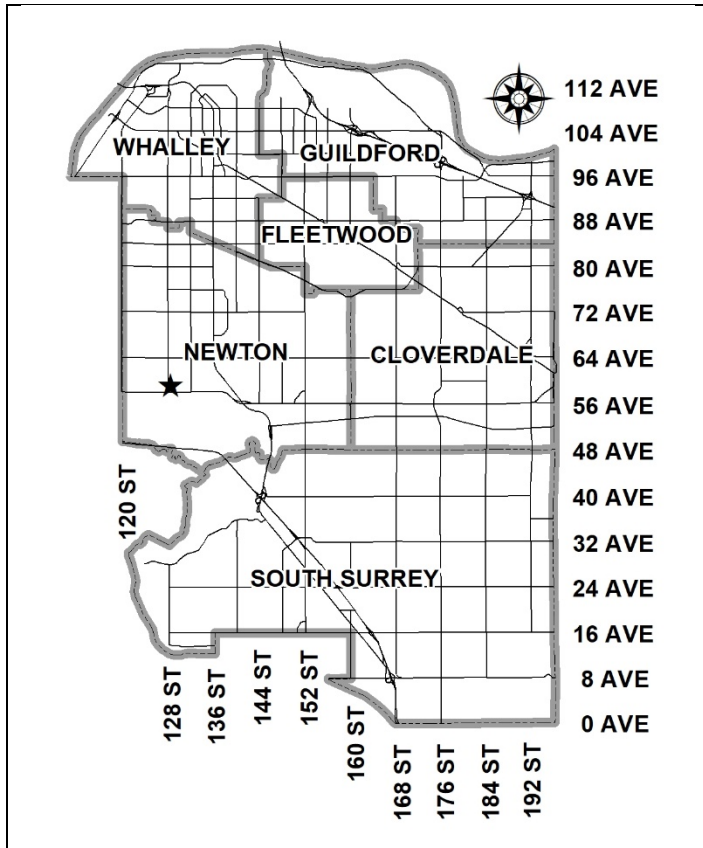


City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7918-0288-00

Planning Report Date: July 8, 2019



PROPOSAL:

- **Restrictive Covenant Discharge and Amendment**

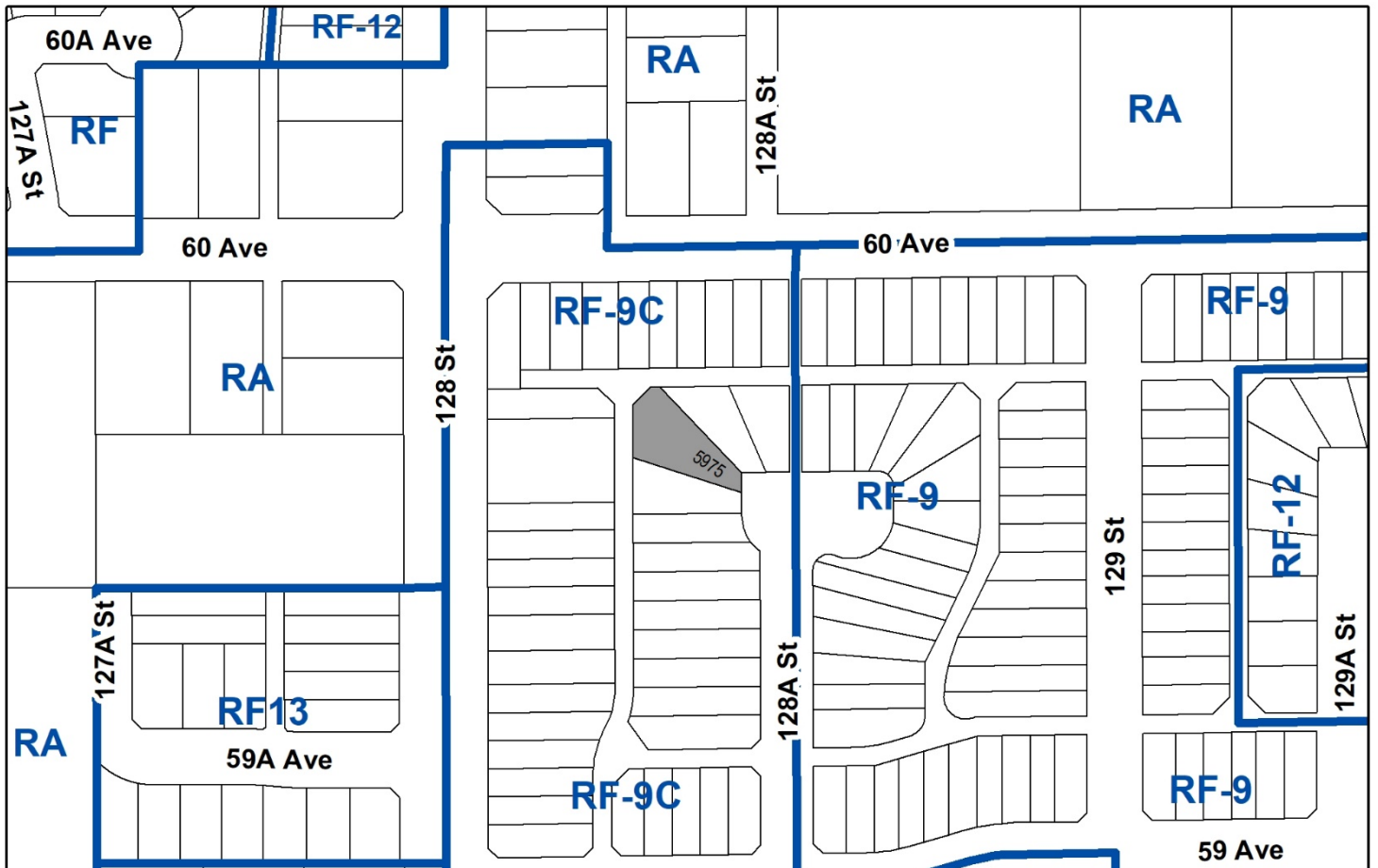
to allow construction of a coach house.

LOCATION: 5975 - 128A Street

ZONING: RF-9C

OCP DESIGNATION: Urban

NCP DESIGNATION: Small Lot with Lane (13 upa)



RECOMMENDATION SUMMARY

The Planning and Development Department recommends that Council approve the proposed discharge of Restrictive Covenant (RC) BB578609 and amendment of Restrictive Covenants (RCs) BB578605 and BB578611 to allow the construction of a coach house on the subject property, provided that the applicant registers a new Restrictive Covenant prohibiting a secondary suite within the principal dwelling.

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- None.

RATIONALE OF RECOMMENDATION

- In 2007, under Development Application No. 7904-0068-00, three Restrictive Covenants (RCs) were registered on properties within this subdivision with the intent of protecting retained trees within the development and restricting the construction of a coach house on five of the lots that were created:
 - BB578605 (Tree Preservation RC) – restricts construction of buildings and structures to the area outside of the tree preservation covenant area;
 - BB578609 (No Coach House RC) – restricts the construction of a coach house on the subject property and four other properties within the subdivision; and
 - BB578611 (Building Scheme RC) – restricts construction within the subdivision to be in accordance with the Statutory Building Scheme registered on title (BB578613), which in turn sets out tree protection as a principal objective for the siting of buildings and structures on the lots, and restricts the construction of a coach house on the subject property and four other properties.
- Several of the trees that were to be retained and protected on the subject property have since declined and been removed with permission from the City.
- The RF-9C Zone allows for either a secondary suite or a coach house, but not both. If the Restrictive Covenants (RCs) are discharged/amended to allow a coach house to be constructed on the subject property, the applicant will not be permitted to have a secondary suite within the principal dwelling. The applicant has agreed to register an RC on title prohibiting a secondary suite within the principal dwelling to reinforce that no secondary suite will be constructed.
- The applicant is proposing three off-street parking spaces – two in the proposed coach house and one on a parking pad adjacent to the coach house – which meets the minimum parking requirements under the Zoning By-law.

RECOMMENDATION

The Planning & Development Department recommends that Council approve the proposed discharge of Restrictive Covenant (RC) BB578609 and amendment of Restrictive Covenants (RCs) BB578605 and BB578611 to allow the construction of a coach house on the subject property as shown in Appendix I, provided that the applicant registers a new Restrictive Covenant prohibiting a secondary suite within the principal dwelling.

REFERRALS

Engineering: No comments.

SITE CHARACTERISTICS

Existing Land Use: Vacant single family small lot.

Adjacent Area:

Direction	Existing Use	NCP Designation	Existing Zone
North (Across lane):	Single family dwellings	Small Lot with Lane (13 upa)	RF-9C
East:	Single family dwelling	Small Lot with Lane (13 upa)	RF-9C
South:	Vacant single family lot	Small Lot with Lane (13 upa)	RF-9C
West (Across lane):	Single family dwellings	Small Lot with Lane (13 upa)	RF-9C

DEVELOPMENT CONSIDERATIONSBackground

- The subject site is located on a cul-de-sac at 5975 – 128A Avenue. The property is zoned "Single Family Residential (9) Coach House Zone (RF-9C)", is designated "Small Lot with Lane (13 upa)" in the West Newton/Highway 10 Neighbourhood Concept Plan (NCP), and "Urban" in the Official Community Plan (OCP).
- The site's current zoning allows for either a secondary suite or a coach house on the property, but not both. If the subject Restrictive Covenants (RCs) are discharged/amended to allow a coach house to be constructed on the subject property, the applicant will not be permitted to have a secondary suite within the principal dwelling and will be required to register a new RC on title prohibiting a secondary suite within the principal dwelling.
- Restrictive Covenant (RC) BB578609 was registered on title of the property that restricts the placement, installation, or construction of any coach houses on the subject property and four other properties (12832 – 60 Avenue, 5959, 5963, and 5967 – 128A Street) out of the 41 properties created under Development Application No. 7904-0068-00.

- Restrictive Covenant (RC) BB578605 restricts construction of buildings and structures to the area outside of the tree preservation covenant area (Appendix I).
- Restrictive Covenant (RC) BB578611 contains an attached schedule (Building Scheme) that restricts the construction of garages, coach houses, and parking structures of any kind on the subject property and the four properties noted above and sets out tree protection as a principal objective for the siting of buildings and structures on the lots within the subdivision.
- The RCs were registered against title of these properties in September 2007, at the time these properties were created through a rezoning and subdivision application (Development Application No. 7904-0068-00). The intent of the RCs was to protect retained trees within the development.
- At the time of subdivision, Statutory Building Scheme (SBS) BB578613 was also registered on title with provisions for protecting retained trees on properties throughout the subdivision and restricting the construction of garages, coach houses, and parking structures of any kind on the subject property and the four other properties noted above. The City is not party to the SBS, rather the SBS represents an agreement between the developer and the owners of the individual lots in the subdivision to develop the property in accordance with a set of design guidelines. The SBS can only be amended or discharged with the consent of all parties or through a court order.
- In June 2010, an application was made (Development Application No. 7910-0148-00) to amend the RCs on title of 34 of the 41 properties created under Development Application No. 7904-0068-00, in order to allow adjustments to the tree protection covenant area and no build areas set out in the RCs detailed above. The amendment of these RCs would have allowed construction of principal dwellings, garages, and coach houses in areas that had previously been protected for the purpose of retaining trees.
- Development Application No. 7910-0148-00 was not supported by staff as presented. The application was subsequently closed at the applicant's request in September 2010, without having been forwarded to Council for consideration.
- In March 2017, the applicant submitted an Arborist Report to the City prepared by Diamond Head Consulting Ltd. and applied to have eight (8) trees removed from the subject property that were dying or in declining health. A Tree Cutting Permit was issued by the City in May 2017 for the removal of the eight (8) trees.
- Under the City's Tree Protection By-law, fifteen (15) replacement trees are required, however, given the size of the subject property, only four (4) replacement trees can be accommodated on site and are to be planted within the existing tree protection covenant area.
- It is anticipated the replacement trees will be planted after construction on the lot is complete. The applicant has paid a security of \$1,600 (\$400 per replacement tree) to the City as per the Tree Protection By-law. This security will only be returned after the replacement trees have been planted, inspected, and approved by the City.
- A contribution of \$4,400 was paid to the Green City Fund in lieu of planting the additional eleven (11) replacement trees that are required under the Tree Protection By-law.

Current Proposal

- The applicant is proposing to:
 - Discharge RC BB578609 that restricts the placement, installation, or construction of any coach houses on the subject property;
 - Amend RC BB578605 to revise the tree protection covenant area on the subject property to allow for the siting of a coach house; and
 - Amend RC BB578611 to remove the provisions that restricts the construction of garages, coach houses, and parking structures of any kind on the subject property and amend the siting requirements to allow for the construction of a coach house.
- The applicant is proposing to construct a single family dwelling on the subject property, along with a coach house and a porous parking pad (e.g. permeable pavers or crushed gravel).
- The proposed single family dwelling and coach house adhere to the Zoning By-law in terms of lot coverage, floor area ratio (FAR), and setbacks.

Applicant's Rationale

- The property is zoned to allow a coach house.
- At the time of rezoning and subdivision, there were twelve (12) mature trees clustered in the northwest portion of the site.
- The restrictive covenants (BB578609, BB578605, and BB578611) were registered against the property at the time of rezoning and subdivision with the restrictions on coach houses and garages being put in place for the purposes of tree retention.
- Since that time, a Tree Cutting Permit was issued by the City for the removal of eight (8) of the twelve (12) trees on the subject property that were deemed to be dying or in decline and were subsequently removed.
- The critical root zones for the remaining trees will not be impacted by the construction of the coach house, and similarly, the four (4) required replacement trees will be located so as to not be impacted by the proposed coach house (Appendix I).
- Therefore, the discharge of restrictive covenant BB578609 and the amendment of restrictive covenants BB578605 and BB578611 would allow for the construction of a coach house as per the RF-9C zone, while the remaining and replacement trees would continue to be protected.

Staff Evaluation

- With the removal of eight (8) trees on the subject property, a coach house and additional porous parking pad could be sited outside the critical root zones of the remaining trees on site. The four (4) required replacement trees could also be located so as to not be impacted by the proposed construction of the coach house and parking pad.

- Council's position since mid-2012 has been to no longer support the creation of additional coach houses due to issues that have arisen related to parking and traffic congestion within small-lot subdivisions (i.e. RF-9C and RF-12C) that are zoned to allow coach houses.
- The occurrence of illegal secondary suites on small lots with coach houses has contributed to an overflow of parked cars on streets and lanes, and a shortage of on-street parking. The resulting street congestion has raised concerns about emergency access potentially being compromised, as well as impacts on livability.
- Two rezoning applications (Development Application Nos. 7907-0283-00 and 7912-0037-00) were introduced to Council in 2012 that proposed rezoning to Single Family Residential (9) Coach House Zone (RF-9C) and resulted in Council instructing staff to review concerns with respect to lot size, parking, and illegal suites. For those two applications, Planning and Development staff recommended the applicants revise their proposals to non-coach house zones, and in both cases, Council was supportive of the revised proposal to rezone to Single Family Residential (9) Zone (RF-9) instead, which permits only a secondary suite within the principal dwelling, and no coach house.
- There have been a significant number of parking issues in the vicinity of the subject site since the approval of Development Application No. 7904-0068-00, which rezoned this subdivision to allow coach houses.
- In particular, there have been a total of 500 parking tickets issued (including warnings) for the 5900 block of 128A Street from 2011 to present. This is an average of approximately 56 tickets issued per year, however, so far in 2019 there have already been 52 tickets issued. In addition, there have also been 71 parking service requests made in the vicinity of the subject site through the City's Transportation Division, which usually relate to signage.
- The applicant is aware of the concerns that have been raised regarding parking and traffic congestion and has agreed to register an RC on title prohibiting a secondary suite within the principal dwelling to reinforce that no secondary suite will be constructed.
- The applicant is proposing three off-street parking spaces – two in the proposed coach house and one on a parking pad adjacent to the coach house – which meets the minimum parking requirements under the Zoning By-law.
- Staff are supportive of the proposed RC discharge and amendments, given the current zoning for the subject property allows a coach house, and the proposed coach house can be accommodated on the property without impacting the remaining trees or the required replacement trees, which was the original intention for registering the RCs on title. The applicant has also agreed to register an RC on title reinforcing the zoning restriction prohibiting a secondary suite if there is a coach house.

PRE-NOTIFICATION

- Pre-notification letters were sent on January 3, 2019 to 515 residents and the Newton Community Association. A Development Proposal Sign was installed on January 7, 2019. To date staff have received four phone calls and three emails. The comments received are summarized as follows:

- One resident was interested in building a coach house on their property and called to inquire about the status of the subject application.
- One resident called seeking further clarification about the subject application but voiced no concerns as there was no direct impact from the proposal.
- The remaining five residents contacted staff to voice concerns regarding traffic congestion and existing parking issues in the area. Specifically:
 - Visitor parking is in short supply due to the existence of a nearby dog park and the elimination of street parking to accommodate a new bike lane;
 - Concerns were raised that allowing any additional coach houses would lead to additional traffic congestion and further parking shortages and should therefore not be approved; and
 - Two residents expressed that conflicts have been occurring between neighbours as a result of parking shortages in the area.

(Under the current RF-9C zoning, with the RCs in place, the applicant would be still be allowed to build a secondary suite. If the discharge and amendments to the RCs are approved to allow a coach house to be constructed, the applicant has agreed to register a RC on title restricting a secondary suite within the principal dwelling to reinforce that no secondary suite will be constructed.)

INFORMATION ATTACHED TO THIS REPORT

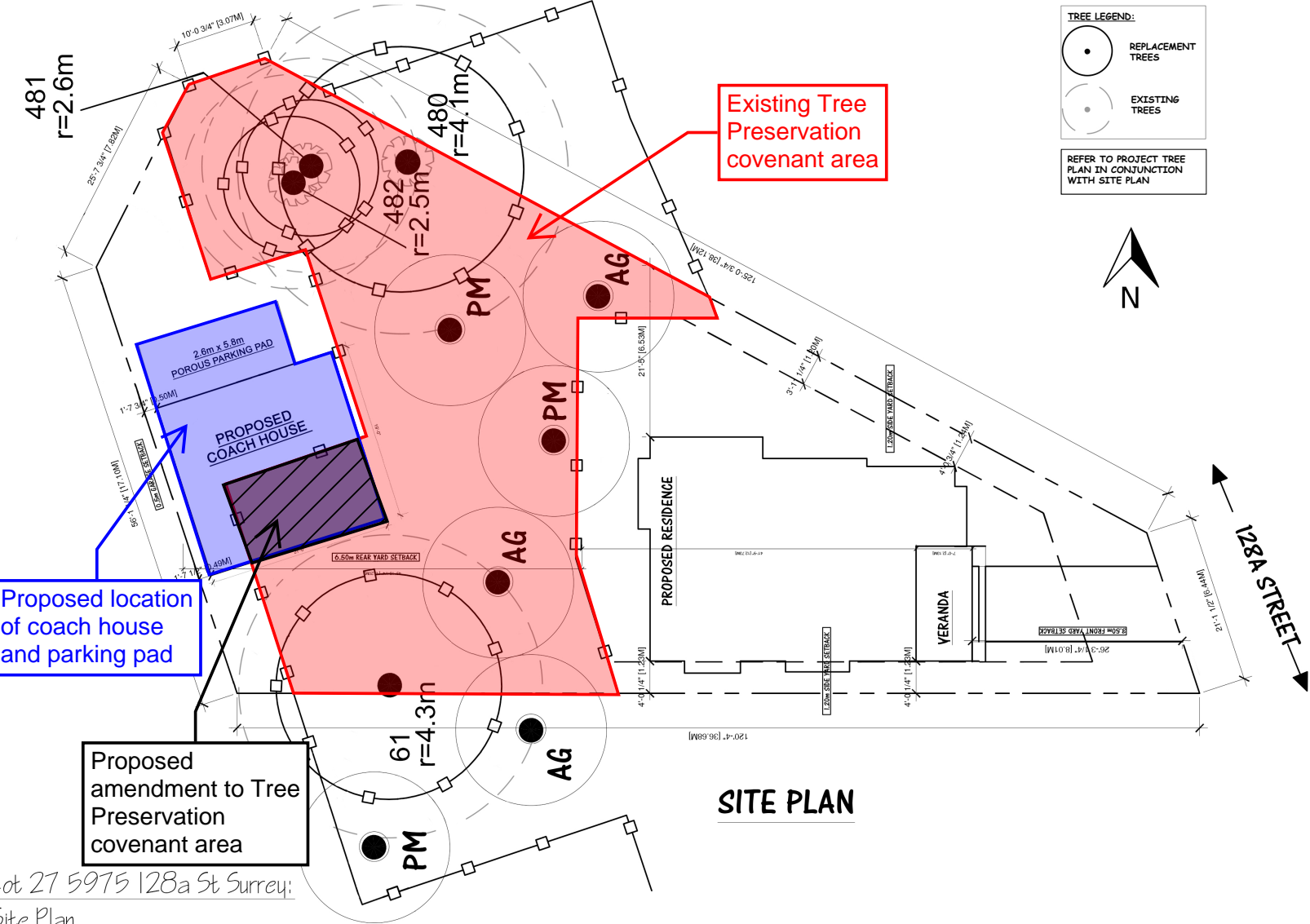
The following information is attached to this Report:

Appendix I. Site Plan

original signed by Ron Gill

Jean Lamontagne
General Manager
Planning and Development

CB/cm



TREE LEGEND:

- REPLACEMENT TREES
- EXISTING TREES

REFER TO PROJECT TREE PLAN IN CONJUNCTION WITH SITE PLAN



CIVIC ADDRESS:

5975 128a STREET SURREY BC

LEGAL DESCRIPTION:

LOT 27 SECTION 8 TOWNSHIP 2 NWD PLAN 32622

PID:

027-295-931

LOT SIZE: 610.00 sq m [6562.00 sq.ft.]
 LOT COVERAGE PERMITTED (52%): 3412.24 sq.ft.

PROPOSED:

LOT COVERAGE PROPOSED (26%):	1705.30 sq.ft.
AREA BREAKDOWN:	
MAIN FLOOR:	883.92 sq.ft.
UPPER FLOOR:	702.00 sq.ft.
BASEMENT FLOOR:	997.00 sq.ft.
ACCESSORY BUILDING:	
COACH HOME:	399.00 sq.ft.
GARAGE:	399.00 sq.ft.

SITE PLAN

Proposed location of coach house and parking pad

Proposed amendment to Tree Preservation covenant area

Existing Tree Preservation covenant area

Lot 27 5975 128a St Surrey;
 Site Plan
 SCALE: NTS

DRAWN BY: GK
 DATE: 2019-03-21

