

From: Friends of French Creek Conservation Society (FFCCS)

Estuary Lands Committee, Robin Robinson, Chair

Updated January, 12, 2019

Report on The French Creek Estuary Lands

The fate of the estuary lands at French Creek has been of prime concern for the Friends of French Creek Conservation Society since its inception in 2004. The following report was first compiled in September 2018 to give information of our progress in preserving this important and sensitive property. Like many land conservation projects, it is long slow work.

Most of the undeveloped land near the estuary is owned by French Creek Estates Ltd., with small sections of parkland owned by the Regional District of Nanaimo. Recently, less than half of the 23 acres, located between Hwy 19A, Columbia Drive, Viking Way and French Creek, has been contracted to be sold to a development company. The more sensitive area adjacent to the estuary is still owned by French Creek Estates Ltd. and is presently being proposed by them as a protected estuary park. The FFCCS Estuary Lands Committee is acting as the facilitator for this exciting prospect.

Some History

In 2006 the Nature Trust of BC, on behalf of FFCCS, held unsuccessful negotiations with French Creek Estates Ltd. owner, the late John Moore. Mr. Moore passed away in 2015, and during the summer of 2016 the 23 acres were put on the market with an asking price of \$6.9M.

In 2016, FFCCS established the Estuary Lands Committee, with the addition of some members from the French Creek Residents Association (FCRA) Board. The goal of the committee was to investigate feasible methods to secure as much of the estuary lands as possible for natural space and park, instead of for development.

The Committee has always been respectful of the fact that the land is privately owned with clear title and an RDN Development Permit (DP) dating from 1994. Fortunately, that DP has morphed over time with changes to BC's environmental standards and there is no longer a threat of multi-storey condominiums being built on the land.

Some results of the Committee's work to date:

- We established a productive working relationship with the owner of French Creek Estates Ltd. As a result, on Dec 11, 2018, FFCCS and FCRA signed a Memorandum of Understanding with

French Creek Estates Ltd. And French Creek House Ltd., the owners of the land This will facilitate the transfer of approximately 14 acres of the 23 acres into preserved parkland.

- We met with Ducks Unlimited Canada and the West Coast Conservation Land Management Program last fall and are presently discussing options for the management of the parkland.
- We compiled and completed an on-line Community Survey conducted in July, 2018. The response was overwhelmingly positive towards forming an estuary park. See our web page <http://www.ffccs.ca> for more details.
- During the summer of 2018, we worked in conjunction with the Mount Arrowsmith Biosphere Region Research Institute (MABRRI) and Vancouver Island University (VIU). VIU students and MABRRI staff conducted a land use and environmental survey of the estuary lands, and in October, 2018, a report *French Creek Estuary: Assessment of its Historical, Community, and Ecological Values* was published by MABBRI. The link to the MABRRI/VIU report is:

http://mabrri.viu.ca/sites/default/files/frenchcreek_analysis.pdf

In Conclusion:

FFCCS has had the goal of securing the estuary lands for almost 15 years. Signing an MOU with the landowner to protect approximately 14 of the 23 acres is an important step towards succeeding in

h

a

v

i

n

g

t

h

i

s

l

a

n

d

p

Memorandum of Understanding

Between:

FRENCH CREEK HOUSE LTD. (FCH) & ITS SUBSIDIARY
FRENCH CREEK ESTATES LTD. (FCE)

Registered British Columbia Companies with their offices at:
600 – 1090 West Georgia St.
Vancouver BC,

As represented by:
Quinn Griesdale, Director
French Creek House Ltd.
1235 E13th Ave.,
Vancouver, BC
(778) 791-1836

And:

FRIENDS OF FRENCH CREEK CONSERVATION SOCIETY (FFCCS)
Registered Association within the province of British Columbia

As represented by:
Patrick Weber
557 Viking Way, Parksville, BC
V9P 2Z5

&

FRENCH CREEK RESIDENTS ASSOCIATION (FCRA)
Registered Association within the province of British Columbia

As represented by:
Robert B. Williams
794 Mulholland Drive
Parksville, BC
V9P 2K4

This memorandum of understanding will be in effect once it has been ratified by resolutions by the Boards of Directors of French Creek Estates Ltd., French Creek Residents Association and Friends of French Creek Conservation Society.

Background:

French Creek House (FCH) and French Creek Estates (FCE) are the owners of several parcels of land bordered by Lee Rd. on the East, French Creek on the West, BC Highway 19A on the South, French Creek Estuary to the North and the French Creek Marina on the North East. The two corporations plan to apply for zoning on their lands to accommodate the development of a community involving residential, commercial and offices which will form as a hub for businesses which will provide services and residential accommodation to the residents of the area. Their plan involves the development of walking and cycling trails linking the communities on the east side of BC Highway 19A.

French Creek Estates (FCE) is the owner of 23 acres of land bordered by French Creek on the East, Columbia Drive on the West, BC Highway 19A on the South and the subdivided properties occupied by homes facing onto Viking Way and Admiral Tryon Blvd. to the North, and legally described as Lots 2-5 Plan VIP62528. These properties form a part of Development Permit 77 issued by the Regional District of Nanaimo in 1994 for clustered high density residential housing.

For several years the residents of the community have used these lands, without authorization, as green space and have developed an informal group of trails and bicycle paths on the property.

Registered in the Regional District of Nanaimo Official Community Plan of 2007 is the communities desire to maintain this space as public and preserved green space. The French Creek Residents Association (FCRA) and the Friends of French Creek Conservation Society (FFCCS) have, over the years expressed an interest in purchasing this land and have diligently worked to protect the estuary, estuary lands and low lying wet lands.

French Creek Estates has entered into an agreement with Elkay Developments for the development of a part of these lands for residential purposes and are in the process of identifying the lands which will be separated from these parcels for development. The lands proposed for development are shown in white and light green on attached appendix "A" as lots A & B. Proposed development Lot A (light green area) has an approximate area of 0.78 hectares and Lot B (off-white area) would have an approximate area of 2.67 hectares (0.39 plus 2.28 hectares).

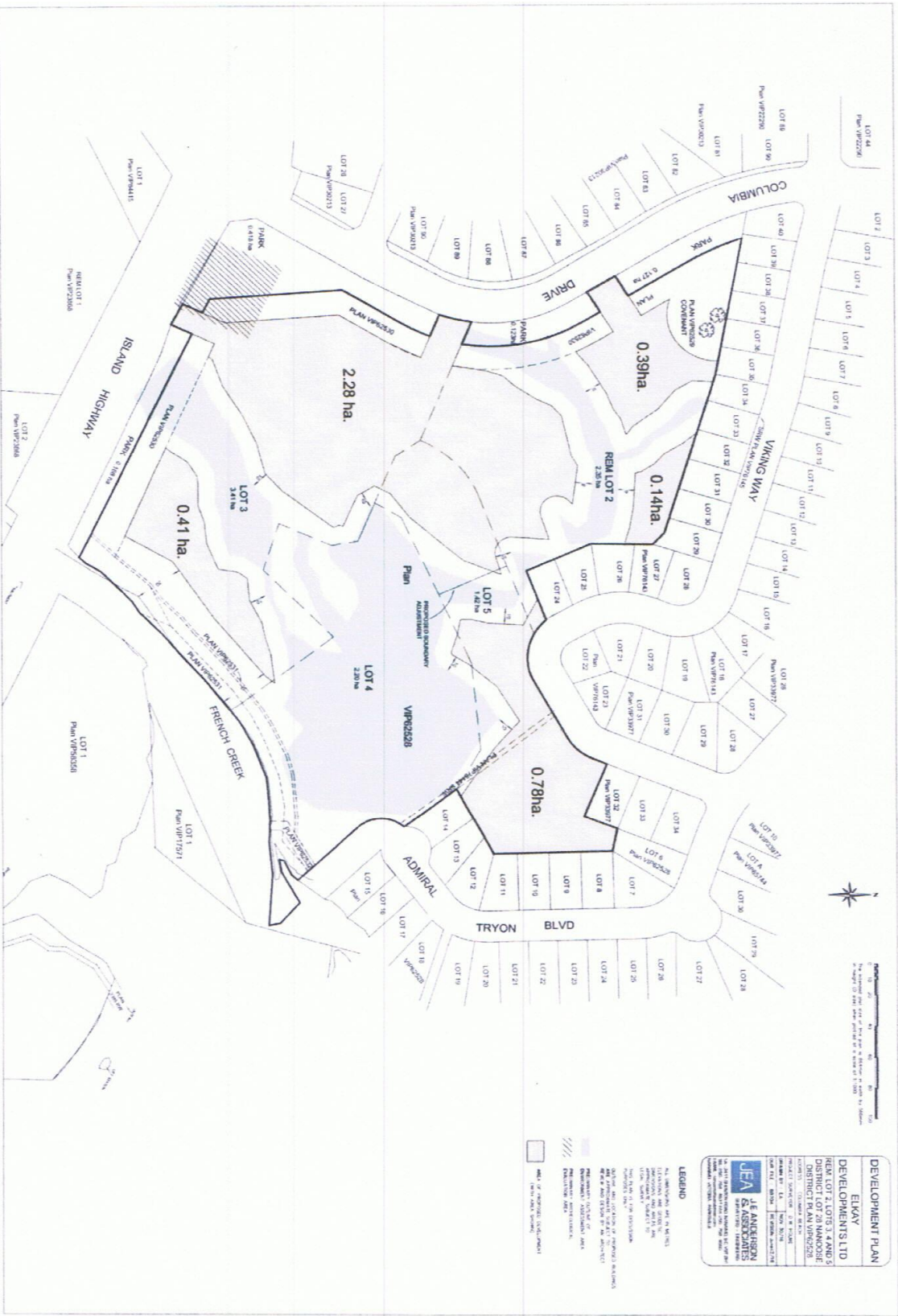
French Creek Estates is proposing that the remainder of the land (as shown in dark green on Appendix A) will be set aside as park land in order to protect the estuary, estuary lands and wet lands associated with French Creek. The proposed park land would include the remainders of lots 2, 3, 4 and 5 (minus lots A and B), plus the 0.14 ha. shown as being a part of lot 2 and the 0.41 ha. shown as being a part of lot 3 on Appendix B. A legal survey to clearly define the park lands will be completed as Lots A and B are removed for development.

French Creek Estates, French Creek House, French Creek Residents Association and the Friends of French Creek Conservation Society will work together as partners to identify the entity that will take ownership and the process for the ongoing management and maintenance of the park, its trails and creek crossings, in accordance with this memorandum of understanding.

Appendix A



Appendix B



Memorandum of Understanding

- A. Immediately following receipt of the development permits by Elkay Developments and the completion of their contract for purchase and sale with French Creek Estates and the re-zoning and development applications being in place for French Creek House, the transfer of the park lands will occur.
- B. Responsibility for maintenance, liability insurance and future upgrades will transfer with the ownership of the land or be delegated to another organization other than French Creek House. The responsibility for the trails in front of Estuary Estates properties will be established as the development proceeds in accordance with the requirements of the Regional District of Nanaimo and liability will remain with French Creek House
- C. An appropriate organization shall be selected, by mutual agreement of the parties to this agreement, to take ownership of the land. This organisation must be supportive of the use as described in this agreement and may be comprised of a single entity or a partnership comprised of two or more government and non-government organizations in order to provide both the ability to hold title to the land and to provide ongoing operation and maintenance of the trails and infrastructure.
- D. The organization as described in clause C will establish a project to develop pedestrian and bicycle trails and bridges based on the advice of environmental consultants, and the studies conducted by Vancouver Island University and the Mount Arrowsmith Biosphere Regional Research Institute. All of the parties to this memorandum of understanding will work to identify and obtain funding for the project through grants, donations, government funding or programs or any combination thereof.
- E. The primary trails included in the project (shown as charcoal on appendix C), are approximately 600m in length starting at Viking Way and will create a contiguous connection crossing both the proposed park land and the lands proposed to be developed by French Creek House and continue to a bridge proposed to be constructed at Morningstar Creek (shown on Appendix C). This trail should be a surface suitable for pedestrians, bicycles, wheel chairs and other mobility aides.
- F. The project will also include a bridge with a span of approximately 45m. at the proposed location shown on Appendix C. This location was chosen as it represents the shortest span requirement. It is understood that the location of proposed bridge would be based on satisfying all environmental requirements and the location may change to reflect this.
- G. A project manager will be appointed by the partnership to oversee the trails and bridge projects.
 - a. Project reporting must be made to all parties involved on a quarterly basis or on written request by the representatives of the parties.
- H. Trail and bridge design must be approved by all parties involved before proceeding with construction.

I. Construction requirements:

- a. The Primary trails and bridge surfaces are to be designed and constructed for ease of use of disabled persons
- b. Secondary trails and look outs will be designed and built to reduce the environmental foot print and preserve sensitive areas
- c. The design and costs for the construction of trails and the bridge are to be mutually agreed upon by all of the parties
- d. Other requirements may result through discussions with the Regional District of Nanaimo, agencies of the Province of British Columbia or the corporate entity that will become the owners of the park land.

J. Branding and marketing of the name "French Creek Trails" will remain the property of French Creek House until June 30th, 2028 or the completion of the French Creek House development, also know as French Creek Village. French Creek House will authorize the use of the name for the trails and/or park land and will work with the partnership on any marketing of the park land and trails.

K. All parties to this agreement will work together to develop a mutually beneficial public image of the park, trails, bridge and the development of the community.

L. It is understood and agreed by all of the parties to this memorandum of understanding that this agreement will apply to the current parties to the agreement and all heirs or assigns and, once the surveys are completed to identify those lands which will be removed for development, this memorandum of understanding will either be registered as a covenant against the title or titles of the lands to be dedicated as park land or will be used to develop such a covenant.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the 11th day of December, 2018.

FRENCH CREEK HOUSE LTD.

By: 
Authorized Signatory

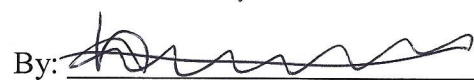
FRENCH CREEK ESTATES LTD.

By: 
Authorized Signatory

FRIENDS OF FRENCH CREEK
CONSERVATION SOCIETY

By: 
Authorized Signatory

FRENCH CREEK RESIDENTS
ASSOCIATION

By: 
Authorized Signatory

Motion to participate in a Memorandum of Understanding by the Board of Directors of the French Creek Residents Association:

Moved - that the French Creek Residents Association (FCRA) enter into a Memorandum of Understanding (MOU) concerning French Creek Estuary Lands between the owners French Creek House Ltd (FCH) and it's subsidiary French Creek Estates Ltd (FCE) together with the Friends of French Creek Conservation Society (FFCCS) and FCRA for the purpose of acquiring those lands to be placed in trust with an entity yet to be determined. Further, the FCRA Board of Directors understands that in signing this MOU, the Association is not acquiring any financial obligation that would encumber the Association or it's Members. It is further understood that FFCCS has obtained Independent Legal Advice (ILA) to confirm there are no financial obligations for either Association.

Moved - Williams

Seconded - Swannack

Carried

Date - December 6, 2018

Motion to authorize a Representative to sign the MOU on behalf of the Association:

Moved - President Rob Williams be authorized to sign the MOU between French Creek Estates, French Creek House, FCRA and FFCCS when finalized.

Moved - Coath

Second - Shaw

Carried

Date - November 1, 2018

The above motions by the Board of Directors are certified to be as recorded in Minutes for the Association on the date indicated:


Michael Jensen
Secretary
French Creek Residents Association

Date 

**Friends of French Creek Conservation Society
Special Board of Directors Meeting
Held November 1, 2018
484 Columbia Drive, Parksville, BC**

Present: Ray Smith (chair), Sunshine Goldsberry, Liberty Bradshaw, Rosemary Ashworth, Brian Coath and Sandy Robinson.

Guests: Robin Robinson, Patrick Weber

The following motions were passed:

Motion 1:

Moved by Sandy Robinson, seconded by Brian Coath, that:

The Friends of French Creek Conservation Society Board of Directors has reviewed the Memorandum of Understanding between French Creek Estates, French Creek House, French Creek Residents Association and Friends of French Creek Conservation Society and approve the signing of the Memorandum of Understanding once independent legal advice has been received confirming that there are no financial obligations that would impact the Friends of French Creek Conservation Society membership or its Board of Directors; and that signing the Memorandum of Understanding will not pre-empt any opportunity to obtain the balance of the property should the opportunity arise.

Motion 2:

Moved by Liberty Bradshaw, seconded by Rosemary Ashworth, that:

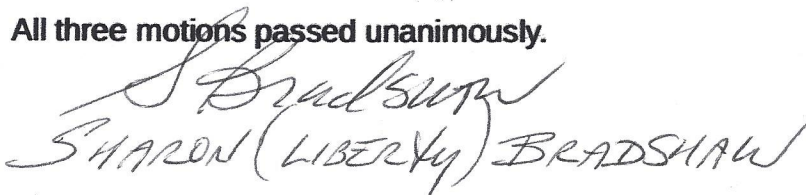
the Friends of French Creek Conservation Society Board of Directors authorize Patrick Weber to sign the Memorandum of Understanding as its representative.

Motion 3:

Moved by Sunshine Goldsberry, seconded by Sandy Robinson, that:

the Friends of French Creek Conservation Society Board of Directors delegates signing authority for the purposes of execution of the Memorandum of Understanding to Patrick Weber, limited to this action only;

All three motions passed unanimously.


SHARON (LIBERTY) BRADSHAW