

L.4 Bylaws for 1114 Rockland Avenue: Rezoning Application No. 00711

Moved By Councillor Thornton-Joe

Seconded By Councillor Alto

That the following bylaw **be given first and second readings:**

1. Zoning Regulation Bylaw, Amendment Bylaw (No. 1249) No. 21-025

FOR (8): Mayor Helps, Councillor Alto, Councillor Andrew, Councillor Dubow, Councillor Isitt, Councillor Loveday, Councillor Potts, and Councillor Thornton-Joe

OPPOSED (1): Councillor Young

CARRIED (8 to 1)

Moved By Councillor Thornton-Joe

Seconded By Councillor Alto

That the following bylaws **be given first, second, and third readings:**

1. Housing Agreement (1114 Rockland Avenue) Bylaw (2021) No. 21-026

FOR (8): Mayor Helps, Councillor Alto, Councillor Andrew, Councillor Dubow, Councillor Isitt, Councillor Loveday, Councillor Potts, and Councillor Thornton-Joe

OPPOSED (1): Councillor Young

CARRIED (8 to 1)

Moved By Councillor Thornton-Joe

Seconded By Councillor Alto

Development Permit with Variances Application No. 00140

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00711 for 1114 Rockland Avenue, if it is approved, consider the following motion:

“That Council authorize the issuance of Development Permit with Variance Application No. 00140 for 1114 Rockland Avenue, in accordance with:

1. Plans date stamped June 29, 2020.
2. Revisions to the plans to shift the location of the sidewalk to the property line and adjust the landscaping along the street frontage to the satisfaction of the Director of Sustainable Planning and Community Development.
3. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:
 - i. reduce the vehicle parking from 17 stalls to 12 stalls;

- ii. reduce the west side setback from 3 metres to 2 metres;
 - iii. reduce the east side setback from 3 metres to 2.6 metres (building face) and 0.35 metres (lobby only)
 - iv. reduce the front setback from 4 metres to 3.6 metres
 - v. reduce the rear setback from 5 metres to 3.33 metres
4. The Development Permit lapsing two years from the date of this resolution.”

FOR (8): Mayor Helps, Councillor Alto, Councillor Andrew, Councillor Dubow, Councillor Isitt, Councillor Loveday, Councillor Potts, and Councillor Thornton-Joe

OPPOSED (1): Councillor Young

CARRIED (8 to 1)



Council Report

For the Meeting of March 11, 2021

To: Council **Date:** March 4, 2021

From: Karen Hoes, Director, Sustainable Planning and Community Development

Subject: **Update on Rezoning Application No. 00711 and Development Permit with Variances Application No. 00140 for 1114 Rockland Avenue**

RECOMMENDATION

Rezoning Application No. 00711

That Council give first and second reading of the Zoning Regulation Bylaw Amendment No. 21-025 (Amendment No. 1249), and give first, second and third reading of Housing Agreement (1114 Rockland Avenue) Bylaw No. 21-026.

Development Permit with Variances Application No. 00140

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00711 for 1114 Rockland Avenue, if it is approved, consider the following motion:

“That Council authorize the issuance of Development Permit with Variance Application No. 00140 for 1114 Rockland Avenue, in accordance with:

1. Plans date stamped June 29, 2020.
2. Revisions to the plans to shift the location of the sidewalk to the property line and adjust the landscaping along the street frontage to the satisfaction of the Director of Sustainable Planning and Community Development.
3. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. reduce the vehicle parking from 17 stalls to 12 stalls;
 - ii. reduce the west side setback from 3 metres to 2 metres;
 - iii. reduce the east side setback from 3 metres **to 2.6 metres (building face)** and 0.35 metres (lobby only)
 - iv. **reduce the front setback from 4 metres to 3.6 metres**
 - v. **reduce the rear setback from 5 metres to 3.33 metres**
4. The Development Permit lapsing two years from the date of this resolution.”

EXECUTIVE SUMMARY

The purpose of this report is to present Council with an update regarding the Rezoning Application and Development Permit with Variances Application for the property located at 1114 Rockland Avenue. The proposal is to create a new site-specific zone that permits an increase in density and allows for a five-storey building with multiple dwelling units. The applicant has fulfilled the conditions set by Council and the application is ready to advance to Public Hearing.

PUBLIC HEARING CONDITIONS

Legal Agreements

In accordance with Council's motion of November 19, 2020 (see attached minutes), the following conditions have been fulfilled:

Affordable Home Ownership Units

The applicant has worked with the Capital Regional District (CRD) to secure two one-bedroom units to be sold at a minimum of ten percent below market value. This arrangement has been secured through a housing agreement with the CRD and legal agreements on title. The maximum income threshold for qualifying buyers has been set at \$75,000 (gross annual income), which falls within the target income range identified in the City's Housing Strategy for affordable home ownership units.

While the agreement is not in perpetuity, it would be for the lesser of the life of the building or ninety-nine years. This commitment is also included in the new zone as a community amenity provision should a new proposal come forward seeking density above 1:1 floor space ratio.

Housing Agreement

A Housing Agreement to ensure a future strata cannot restrict the rental of dwelling units, with the exception of the two one-bedroom dwelling units secured with the CRD, has been executed by the applicant.

Transportation Demand Management

A Section 219 Covenant securing the following Transportation Demand Management measures has been registered on title:

- one car share membership per dwelling unit
- one hundred dollars in car share usage credits per membership
- 20 long term bicycle parking stalls in addition to the requirements under Schedule C of the Zoning Regulation Bylaw
- a bicycle maintenance area
- 22 BC Transit Eco passes.

The value of the bus passes is generally equivalent to the commitment to provide a \$22,500 bus pass subsidy to the future residents and would be provided instead of the original commitment specified in the original Council motion.

OTHER UPDATES

Zoning Variances

Variances related to setbacks and parking are proposed as part of this application. This approach is recommended to ensure that reduced siting and parking requirements are not entrenched in a new custom zone and that any future alternative development proposals would need to apply to Council to achieve these, or different variances. While there are no changes to the plans that were presented to Council at the Committee of the Whole meeting of November 12, 2020, the recommended motion for Development Permit Application with Variances No. 00140 has been updated to include front, rear and east side yard variances (shown in bold) and the notification and hearing would address these accordingly.

CONCLUSIONS

The applicant has fulfilled the conditions set by Council. The recommendation provided for Council's consideration contains the appropriate language to advance these applications to a Public Hearing and an Opportunity for Public Comment.

Respectfully submitted,

Alec Johnston
Senior Planner
Development Services Division

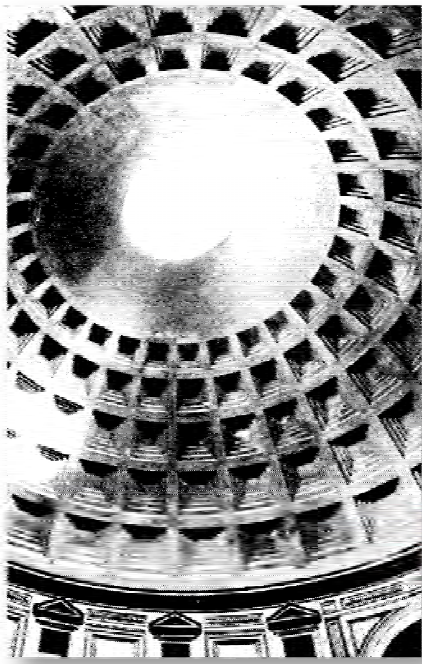
Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: Plans date stamped June 29, 2020
- Attachment B: November 12, 2020 Committee of the Whole meeting staff report
- Attachment C: November 12, 2020 Committee of the Whole meeting minutes
- Attachment D: November 19, 2020 Council motion
- Attachment E: Capital Regional District Housing Agreement.

ROCKLAND REDEVELOPMENT




P R A X I S
architects inc.

ROCKLAND REDEVELOPMENT

1114 Rockland Ave Victoria, BC
PROJECT NO.18-016

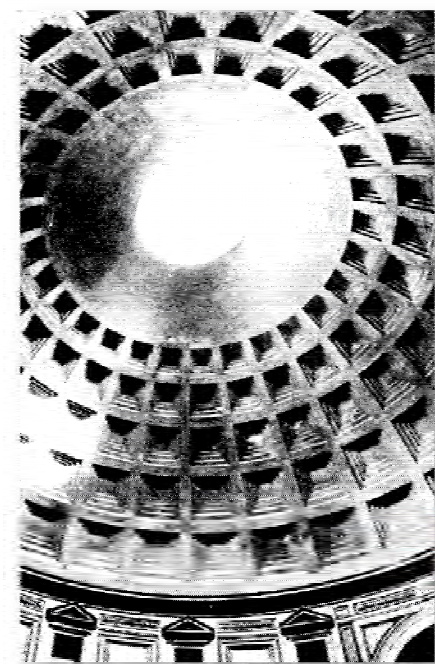
STREET DETAIL

2020.04.14 - REVISED REZONING / DP



Revisions

Received Date:
June 29, 2020



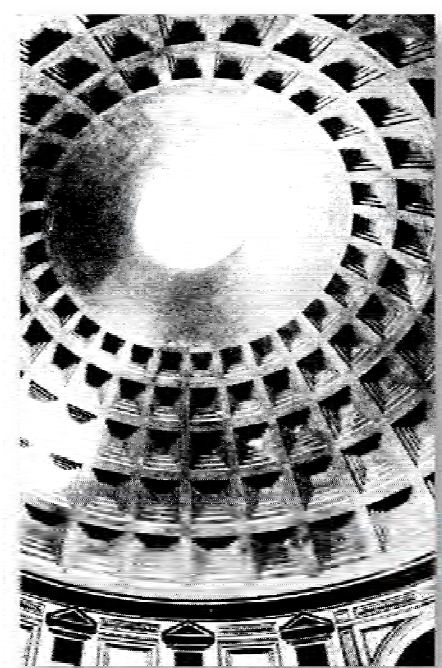
PRAXIS
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ROCKLAND REDEVELOPMENT

1114 Rockland Ave Victoria, BC
PROJECT NO.18-016

SOUTH / WEST VIEW

2020.04.14 - REVISED REZONING / DP



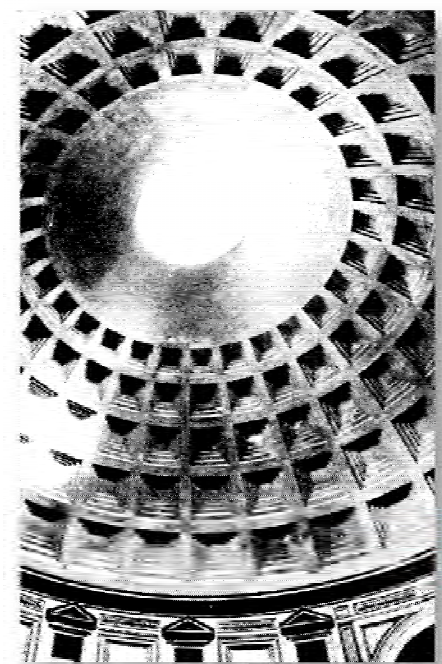
PRAXIS
architects inc.

ROCKLAND REDEVELOPMENT

1114 Rockland Ave Victoria, BC
PROJECT NO.18-016

SOUTH / EAST VIEW

2020.04.14 - REVISED REZONING / DP



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ROCKLAND REDEVELOPMENT

1114 Rockland Ave Victoria, BC
PROJECT NO.18-016

AERIAL CONTEXT

2020.04.14 - REVISED REZONING / DP

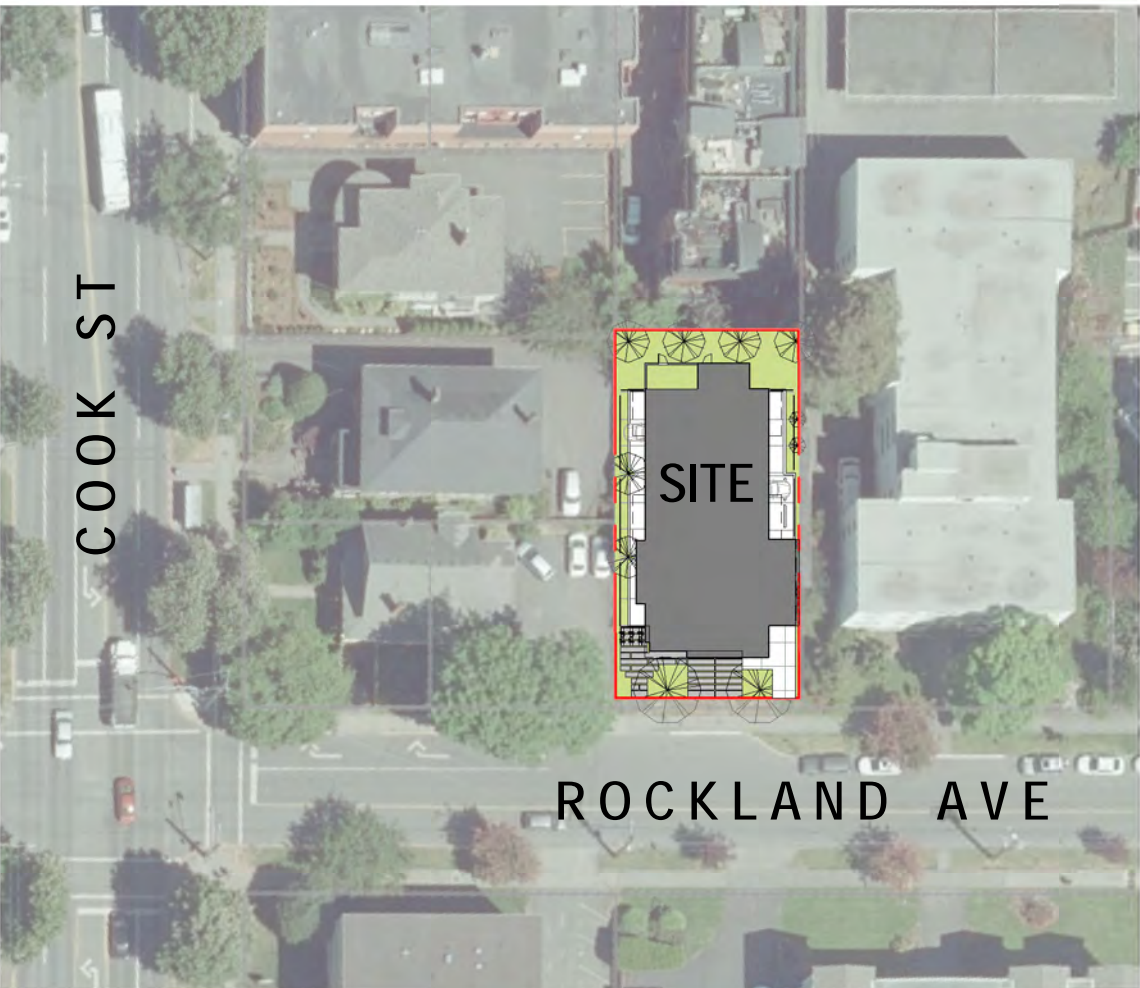
MAP 2
Urban Place
Designations



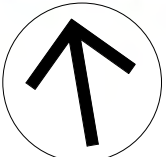
Urban Place Designations extend to the centerlines of adjacent streets.



CONCEPTUAL VIEW FROM SOUTH / WEST



CONTEXT PLAN



PROPOSED PROJECT INFORMATION

EXISTING ZONING	R3-A1 LOW PROFILE MULTIPLE DWELLING DISTRICT		
PROPOSED ZONE	NEW COMPREHENSIVE ZONE		
SITE AREA	0.067 Ha / 0.165 Ac / 669 m ² / 7,201 ft ²		
TOTAL FLOOR AREA	1,337 m ² (14,391 ft ²)		
FLOOR SPACE RATIO	2.0 : 1		
SITE COVERAGE	62.4 %		
OPEN SITE SPACE	28.8 %		
HEIGHT	18.9m		
NO. STOREYS	5 STOREYS WITH ROOFTOP ACCESS		
PARKING PROVIDED	13		
BIKE PARKING	44 CLASS 1 (2 / UNIT) 6 CLASS 2 (RACK FOR 6 @ BIKE REPAIR ZONE) 4 POSSIBLE ADDITIONAL ON BOULEVARD		
BUILDING SETBACKS	FRONT (ROCKLAND AVE.) 4.1m (13.5') REAR 5.9m (19.4') INTERIOR SIDE (WEST) 3.0m (9.8') INTERIOR SIDE (EAST) 3.0m (9.8')	SITING EXCEPTION @ FRAME 0.33m (1.1') SITING EXCEPTION @ STAIR 3.33m (1.9') SITING EXCEPTION @ PROJECTION 2.08m (6.5') SITING EXCEPTION @ BALCONY 1.77m (5.8') SITING EXCEPTION @ ENTRY 0.35m (1.2') SITING EXCEPTION @ BALCONY 1.75m (5.7')	
RESIDENTIAL USE DETAILS:			
NO. UNITS	22	(1BR = 17 2BR = 5)	
MIN. UNIT FLOOR AREA	34.58 m ² (372.18 ft ²)		
MAX. UNIT FLOOR AREA	68.9 m ² (741.6 ft ²)		
TOTAL RES. FLOOR AREA	944 m ² (10,161 ft ²)		

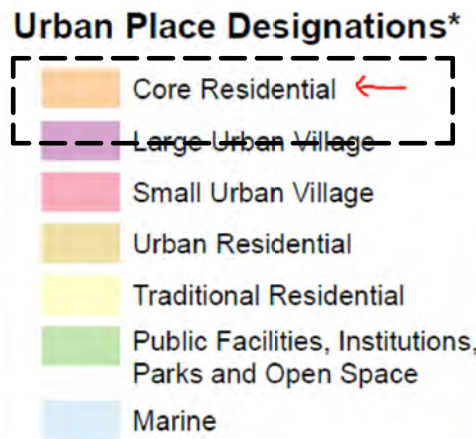
DRAWING LIST

- ARCHITECTURAL
A0 COVER + PROJECT INFO
A1 SITE
A2 PRELIMINARY PLANS (BSMT + L1 + L2)
A3 PRELIMINARY PLANS (L3-L5 + ROOF)
A4 3D CONCEPTUAL VIEWS
A5 ELEVATIONS
A6 STREET VIEWS
A7 SECTIONS
A8 SHADOW STUDY

LANDSCAPE
LANDSCAPE CONCEPT PLAN

SURVEY

MAP 21
Fairfield Strategic
Directions



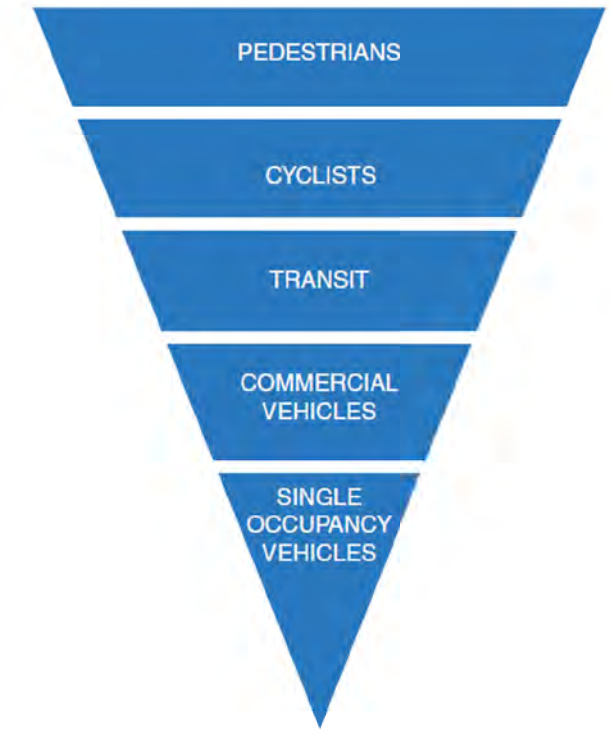
Public Facilities

- Existing Public School
- Community Centre
- Seniors Centre

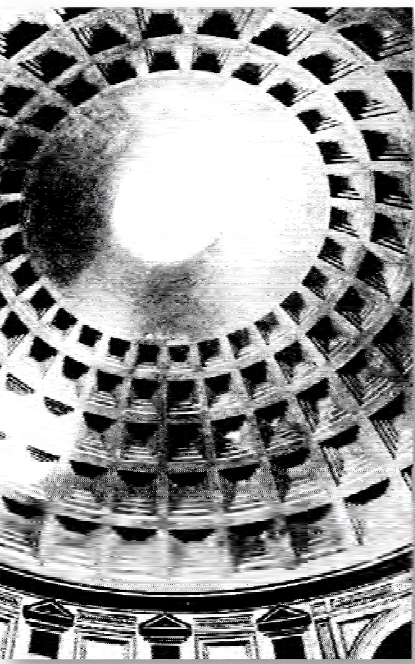
*Urban Place Designations are provided for ii purposes only. Please refer to Map 2 and Fig for designation information.



Figure 10: Hierarchy of Transportation and Mobility Priorities



Designation	Built Form	Place Character Features	Uses	Density
Core Residential	Multi-unit residential, commercial and mixed-used buildings from three storeys up to approximately 20 storeys. Large floor-plate commercial and institutional buildings oriented to the street. Buildings up to approximately eight storeys for the area east of Cook Street/ south of Pandora Avenue/ north of Meares Street. Buildings up to approximately six storeys for areas south of Meares Street/ east of Quadra Street; and, north of Pandora Avenue/ east of Cook Street.	Three to five storey building facades define the street wall with upper storeys set back above. Buildings set close to the street to define the public realm along retail streets, with landscaped setbacks in more residential areas, wide sidewalks, regularly spaced tree planting. Building heights are greatest along Yates Street and Blanshard Street. Off-street parking structured, underground or located at the rear.	Diverse housing types, including low, mid, and high-rise multi-unit residential and mixed-use. Commercial, including office and visitor accommodation. Institutional and complementary uses. Home occupations.	Total floor space ratios generally ranging from a base of 3:1 to a maximum of 5.5:1 for the area south of Mason Street/ east of Quadra Street/ west of Vancouver Street; and, east of Vancouver Street/ west of Cook Street/ on Pandora Avenue. Total floor space ratios ranging from a base of 1:1 to a maximum of 2:1 for areas: on Mason Street/ east of Vancouver Street/ west of Cook Street. Total floor space ratios ranging from 2:1 up to approximately 3.5:1 for the areas: east of Cook Street; and, south of Meares Street/ east of Quadra Street/ west of Cook Street. Total floor space ratios ranging from a base of 3:1 to a maximum of 5:1 for the area west of Quadra Street/ north of Pandora Avenue/ south of Caledonia Avenue. Total commercial floor space ratios up to 1:1 except along Pandora Avenue (base of 1:1 to a maximum of 3:1), and Yates Street and Fort Street (base of 3:1 to a maximum of 5.5:1 west of Cook Street and a base of 2:1 to maximum of 3.5:1 east of Cook Street).



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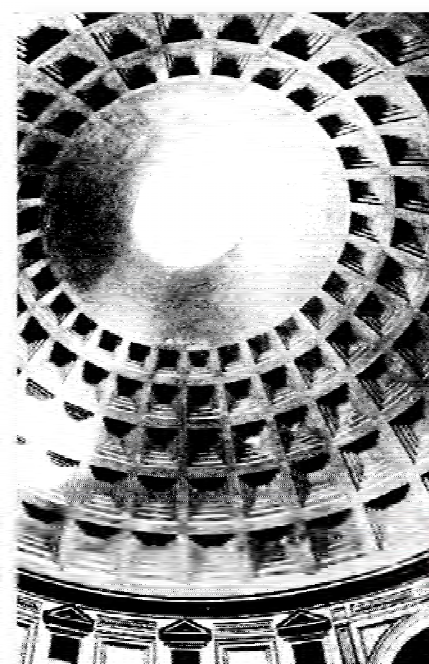
ROCKLAND REDEVELOPMENT

1114 Rockland Ave Victoria, BC
PROJECT NO.18-016

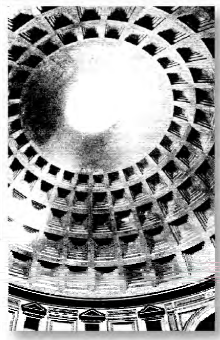
PROJECT INFO + CONTEXT

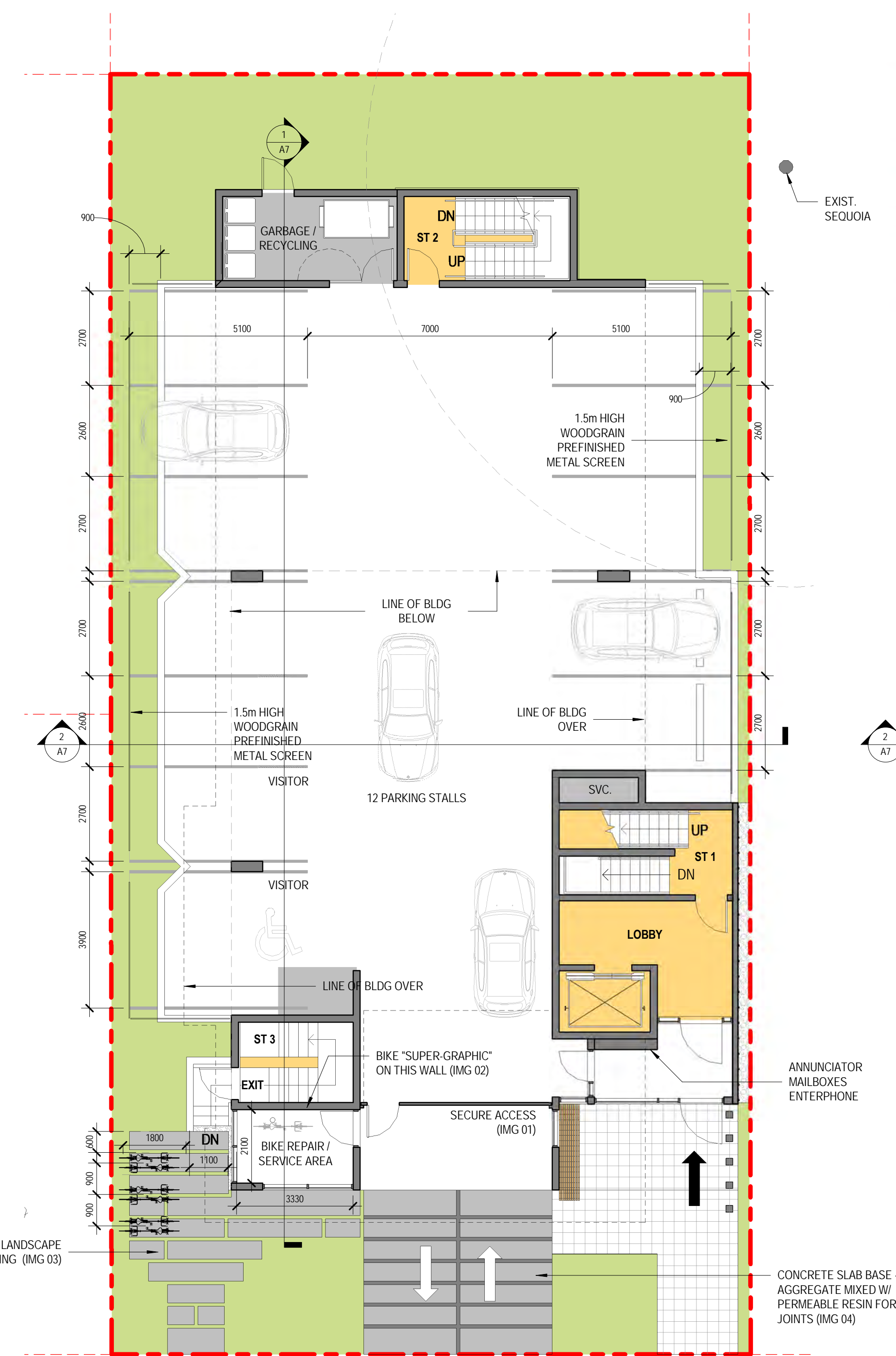
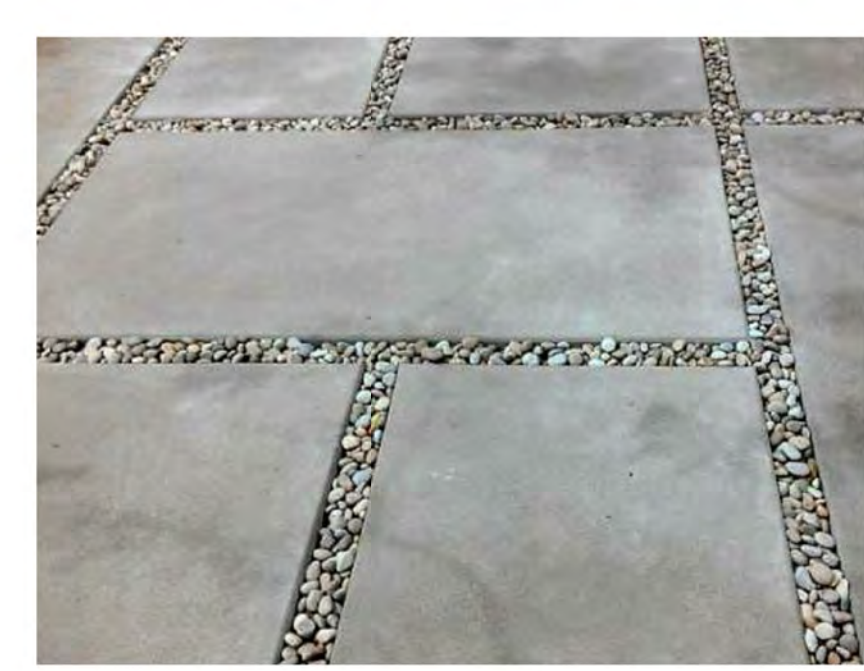
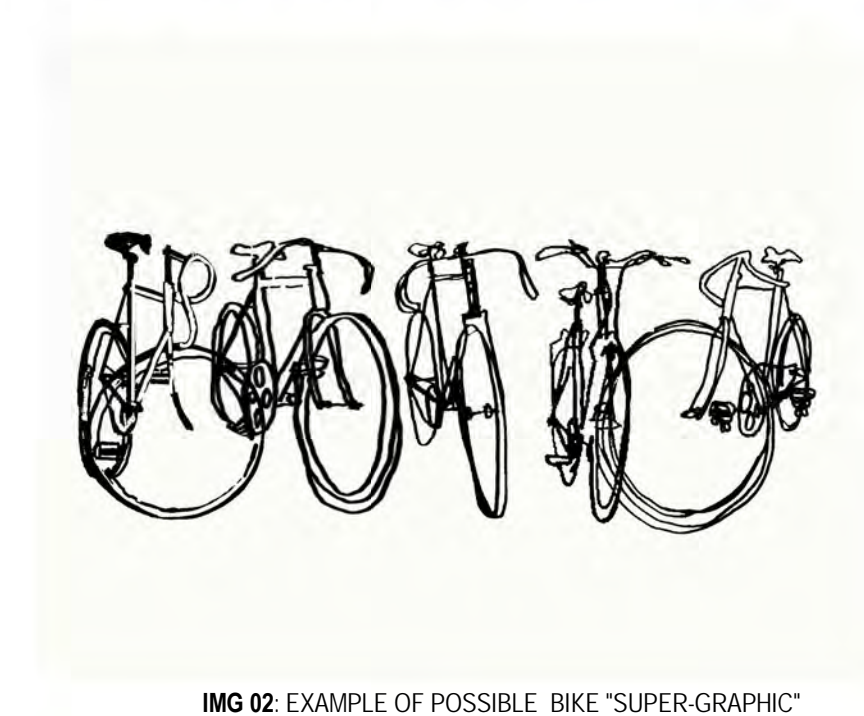
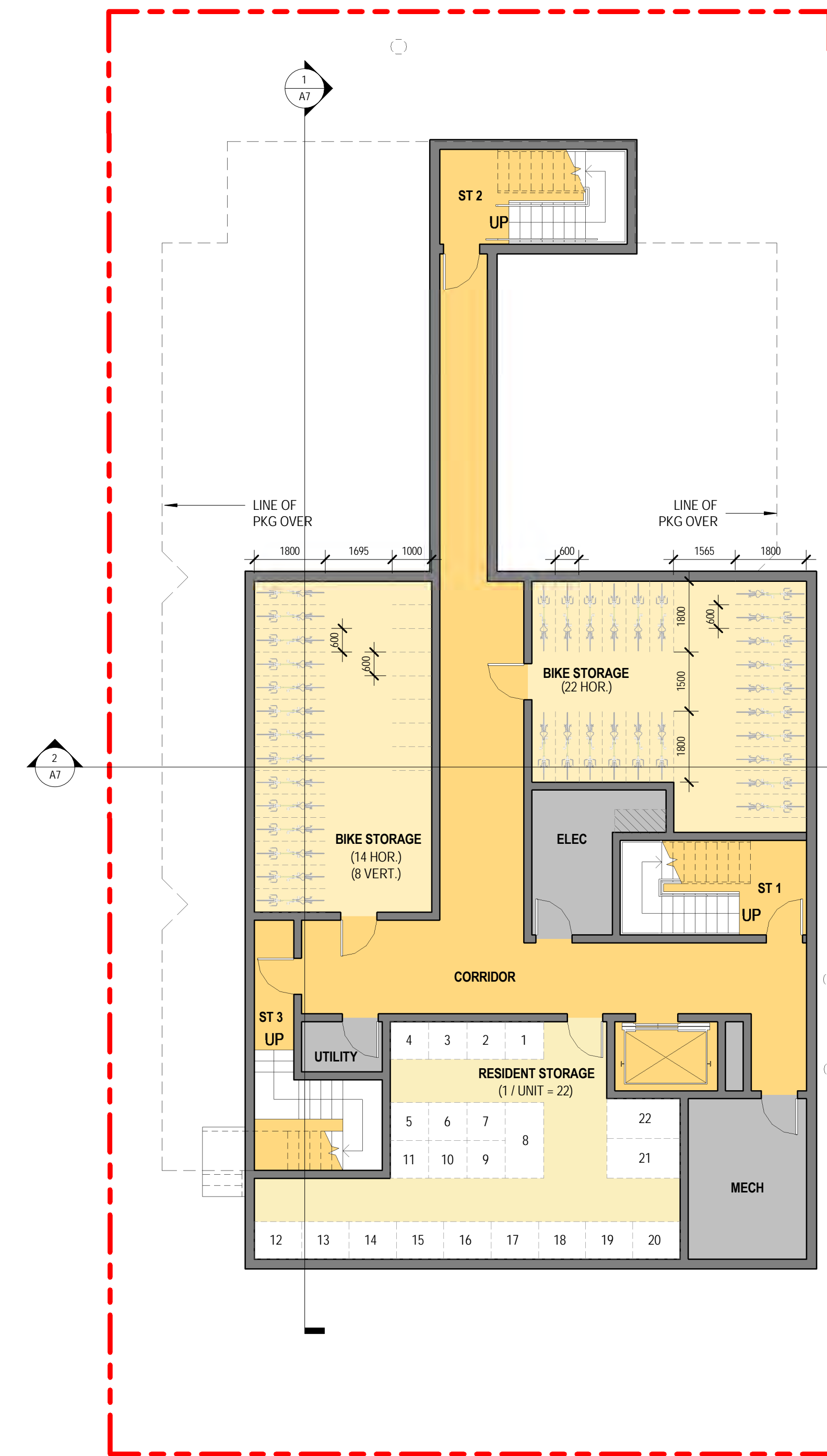
2020.06.16 - IN RESPONSE TO COMMENTS FROM PLANNING

A0

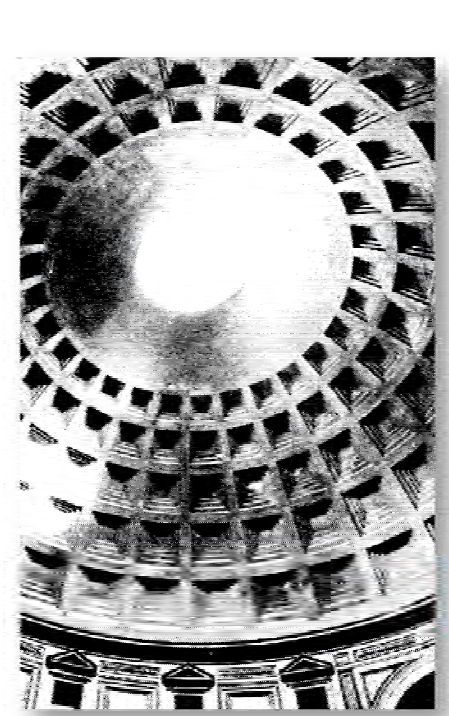
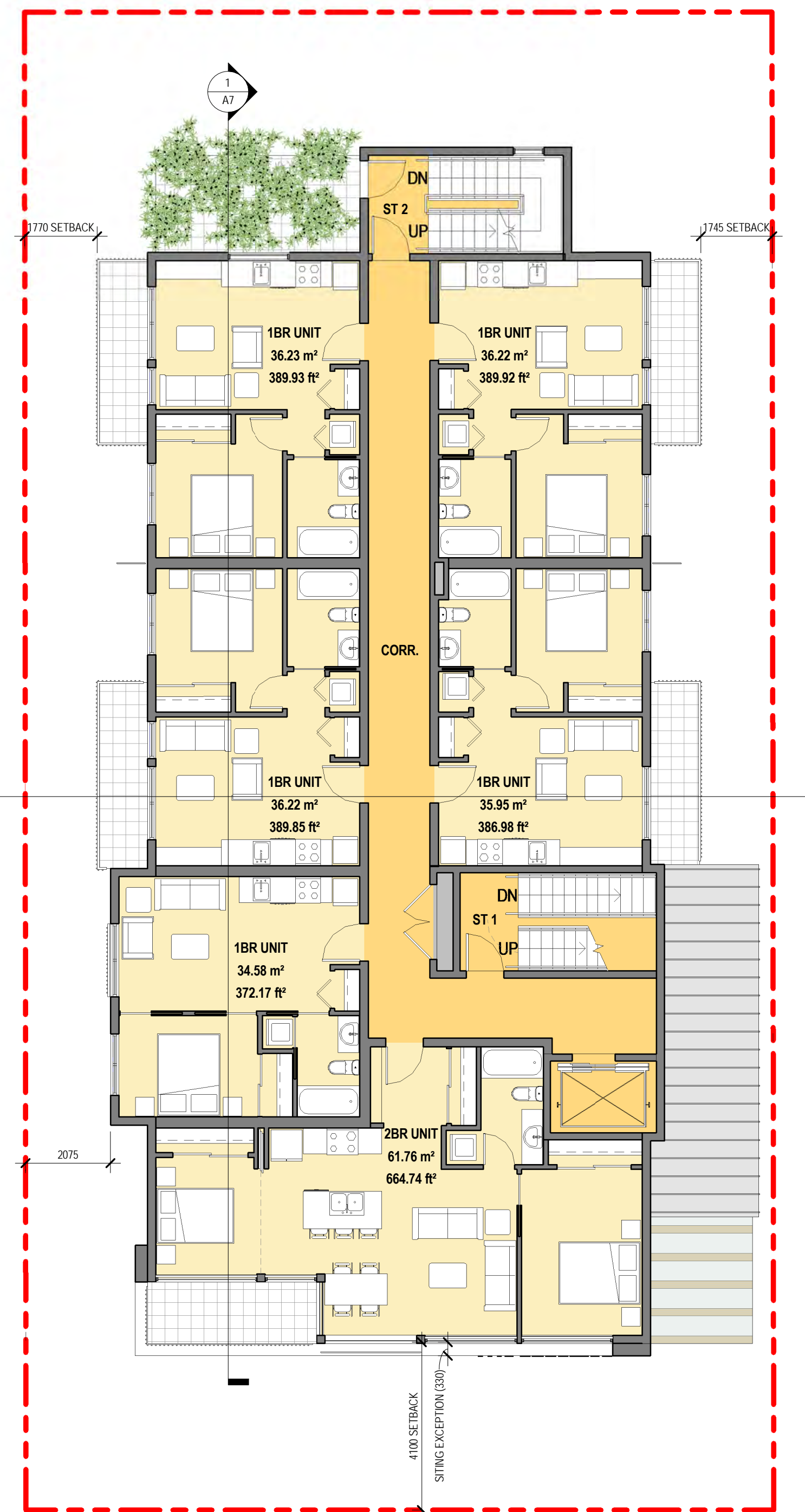


A1





1114 ROCKLAND AVE.
MODIFIED PARKING PLAN
2020.04.03



① BASEMENT
1 : 100

② LEVEL 1 / PARKADE
1 : 100

③ LEVEL 2
1 : 100

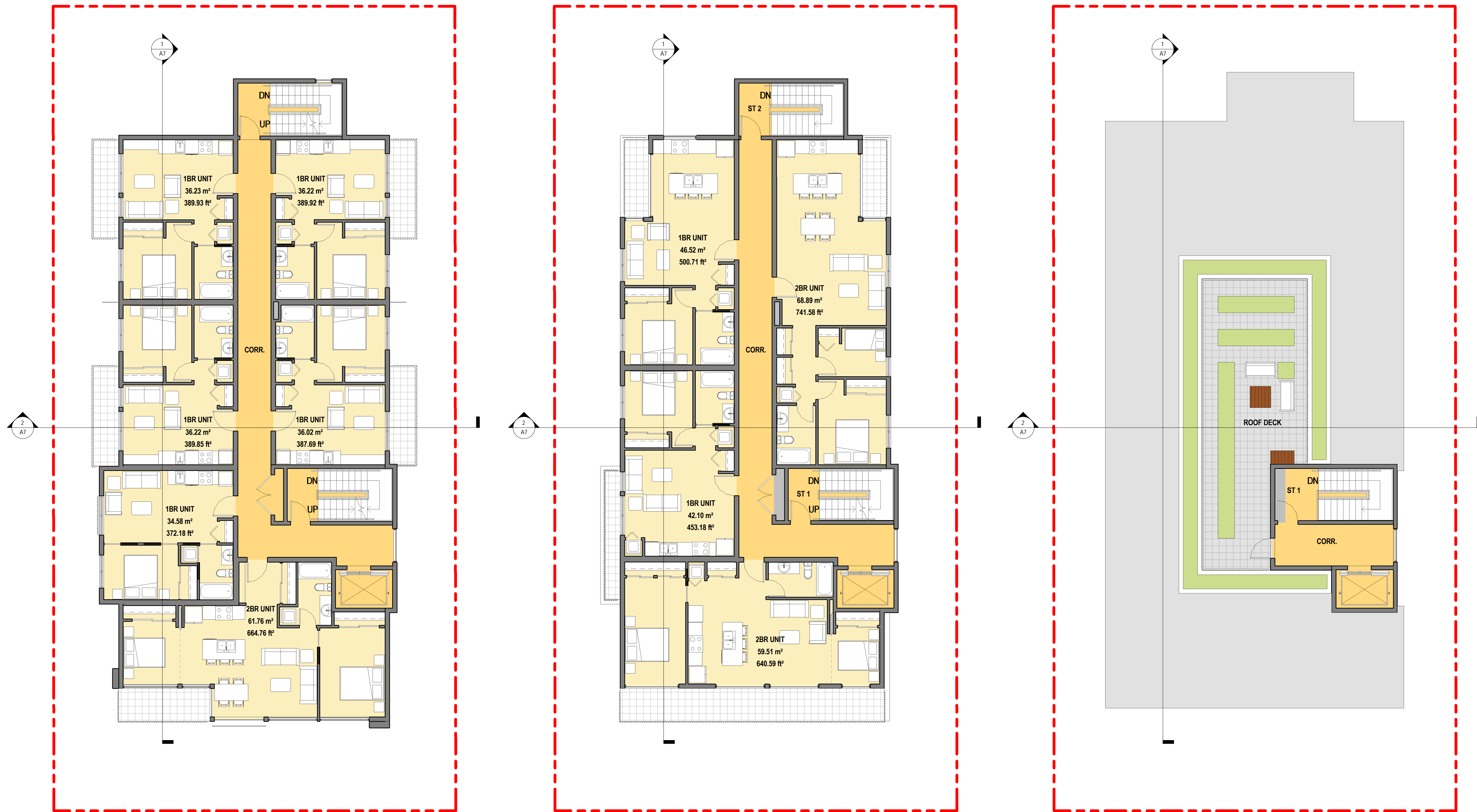
ROCKLAND REDEVELOPMENT

1114 Rockland Ave Victoria, BC
PROJECT NO.18-016

PRELIMINARY PLANS (BSMT + L1 + L2)

2020.04.14 - REVISED REZONING / DP

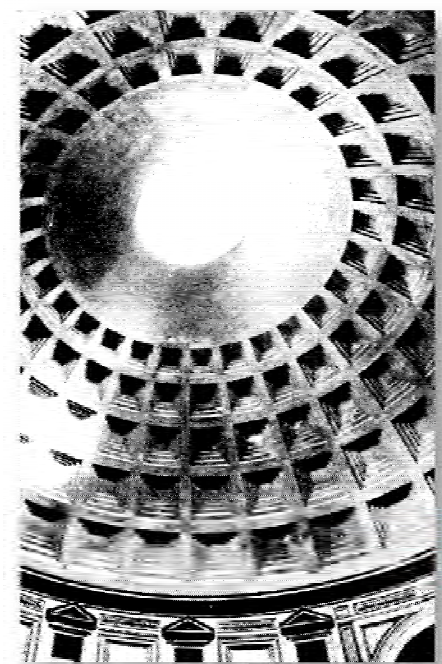
A2



④ LEVELS 3-4
1:100

② LEVEL 5
1:100

③ ROOF DECK
1:100



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ROCKLAND REDEVELOPMENT

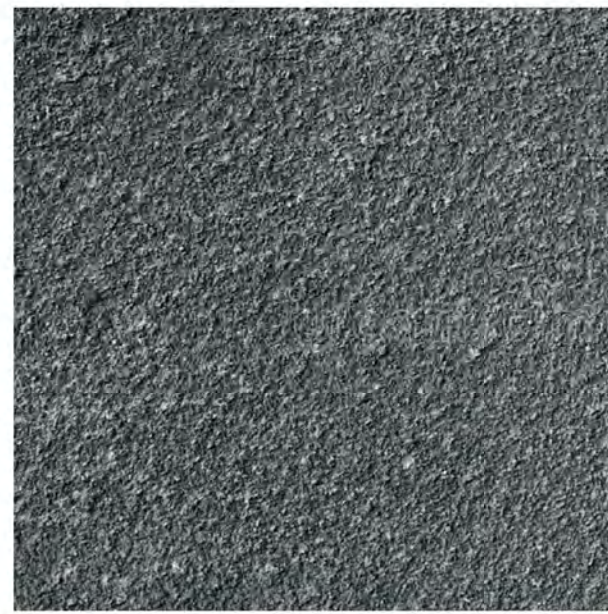
1114 Rockland Ave Victoria, BC
PROJECT NO.18-016

PRELIMINARY PLANS (L3-L5 + ROOF)
2019.10.29 - REVISED PER PLANNING

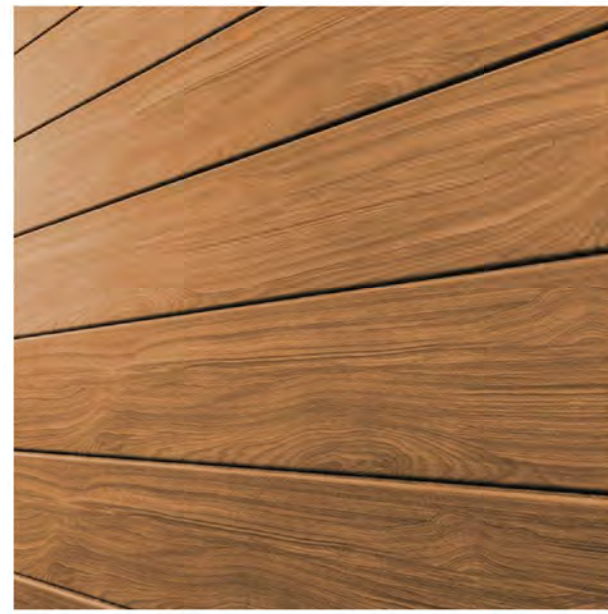
A3



1



2



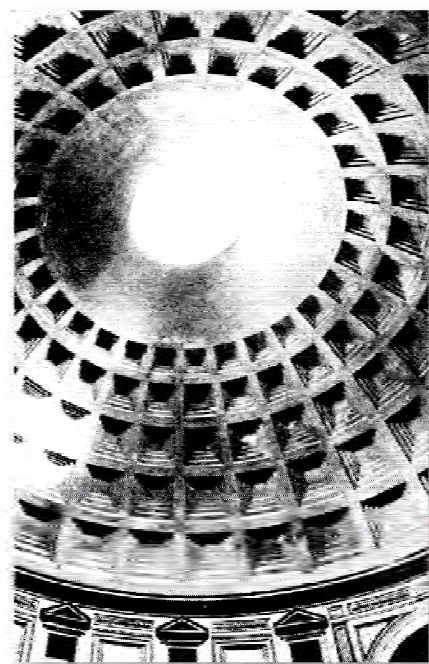
3



4

MATERIAL FINISH LEGEND

- ① STUCCO - WHITE
- ② STUCCO - GRAY
- ③ WOOD GRAIN - PREFIN. METAL
- ④ STANDING SEAM METAL
- ⑤ PRIVACY SCREEN / TRELLIS
- ⑥ SBS MEMBRANE ROOF
- ⑦ ALUMINUM GUARD
- ⑧ PVC WINDOWS
- ⑨ PREFIN. METAL SOFFIT
- ⑩ PREFIN. METAL FASCIA



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ROCKLAND REDEVELOPMENT

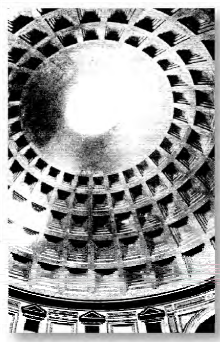
1114 Rockland Ave Victoria, BC
PROJECT NO.18-016

ELEVATIONS

2020.04.14 - REVISED REZONING / DP

A5





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ROCKLAND REDEVELOPMENT

1114 Rockland Ave Victoria, BC
PROJECT NO. 18-016

SOUTH ELEVATION (DETAIL)

2020.04.14 - REVISED REZONING / DP

5

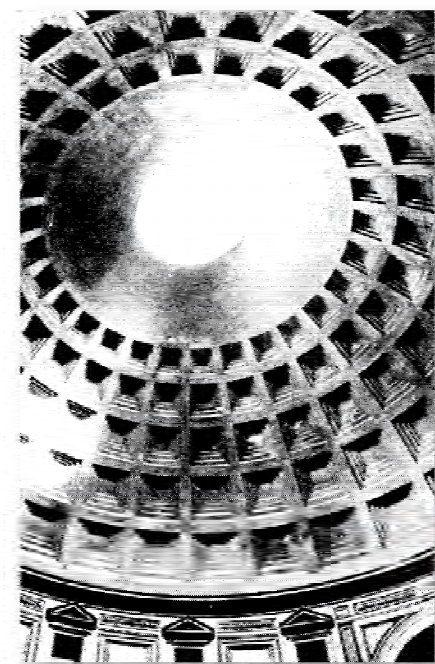
A5.1



① STREET VIEW - EXISTING



② STREET VIEW - PROPOSED



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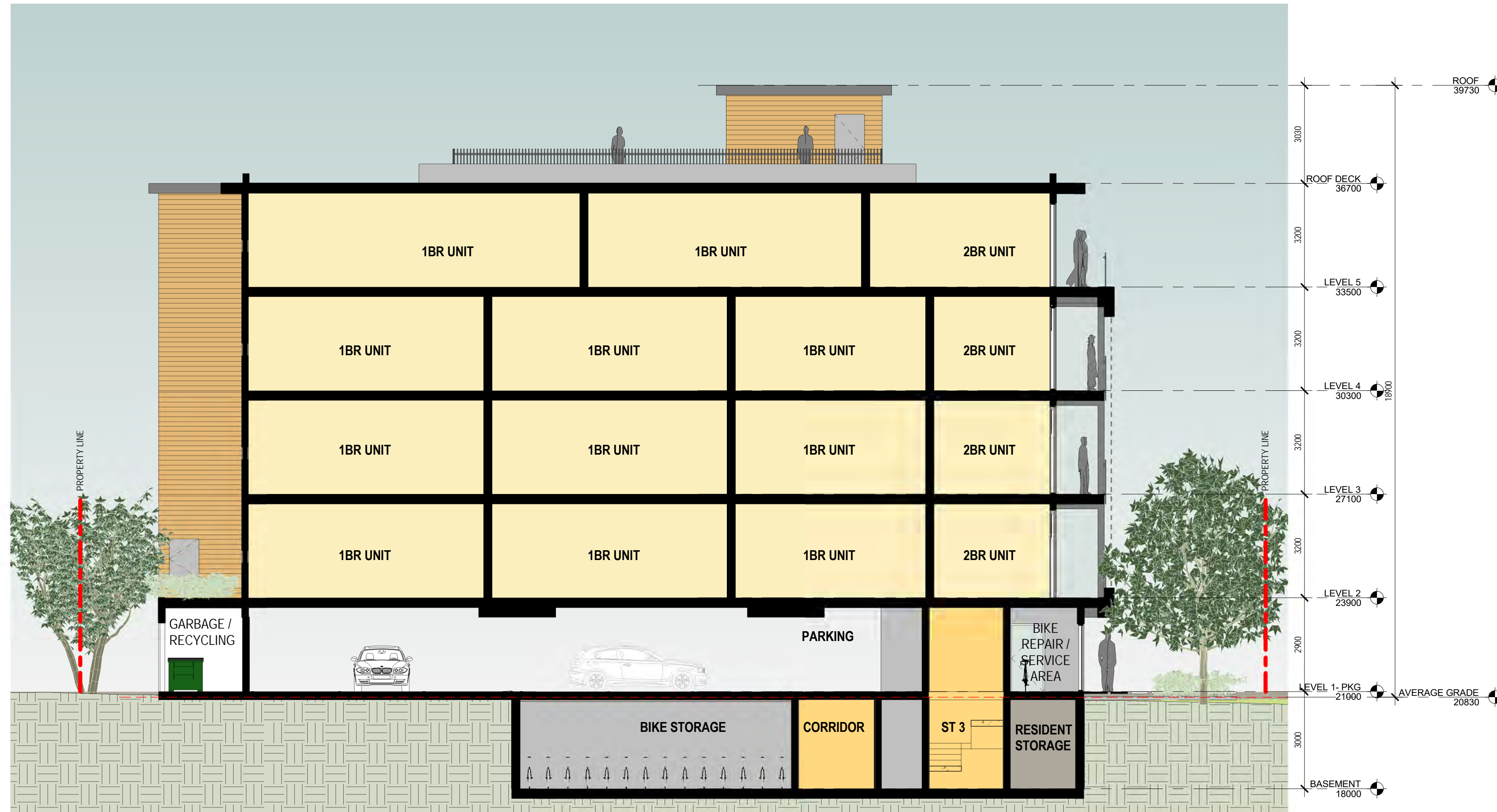
ROCKLAND REDEVELOPMENT

1114 Rockland Ave Victoria, BC
PROJECT NO.18-016

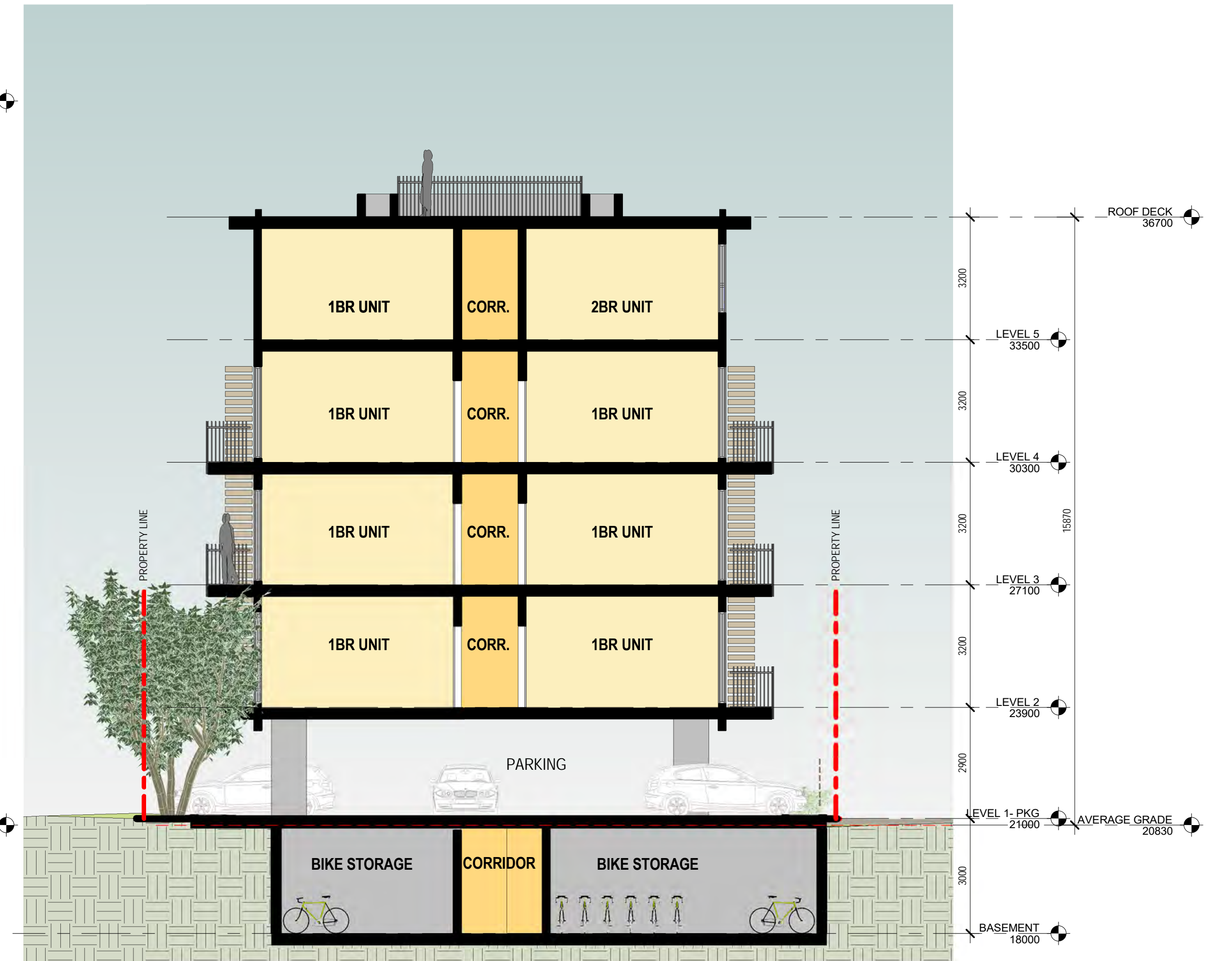
STREET VIEWS

2019.09.30 - REVISED PER PLANNING

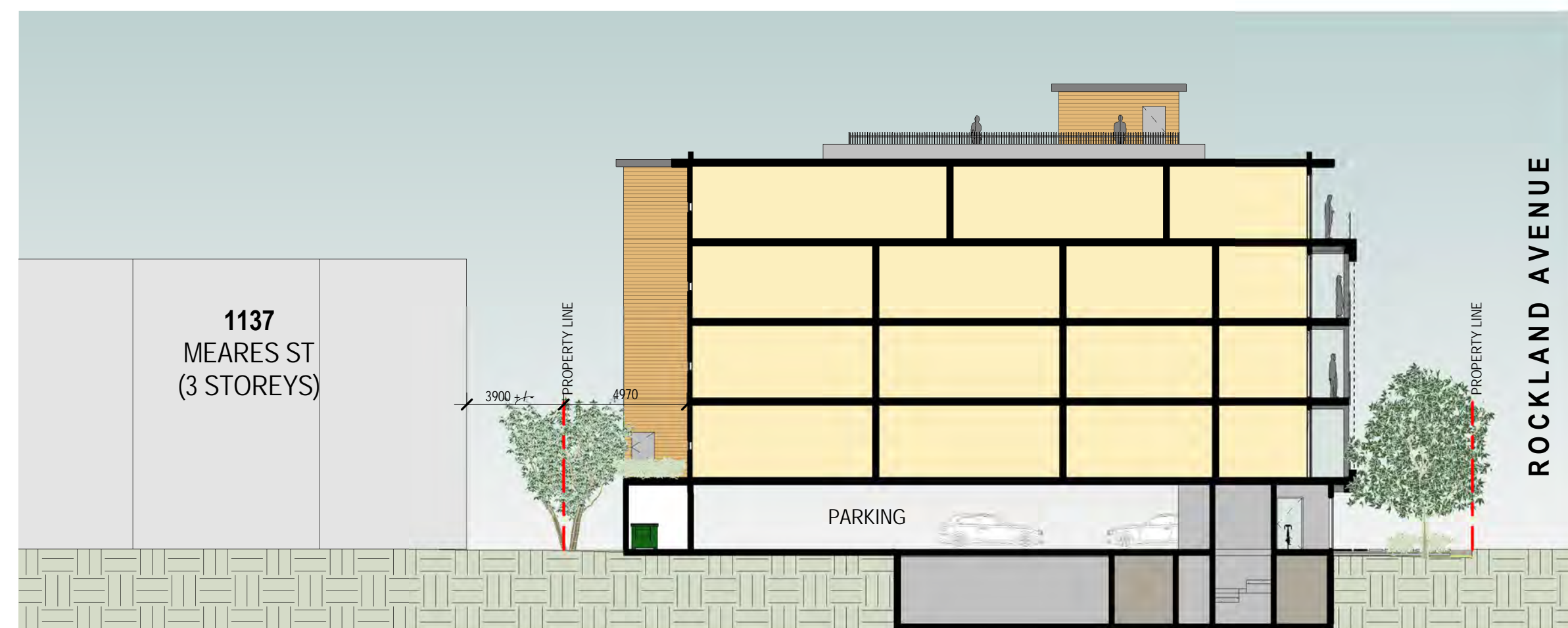
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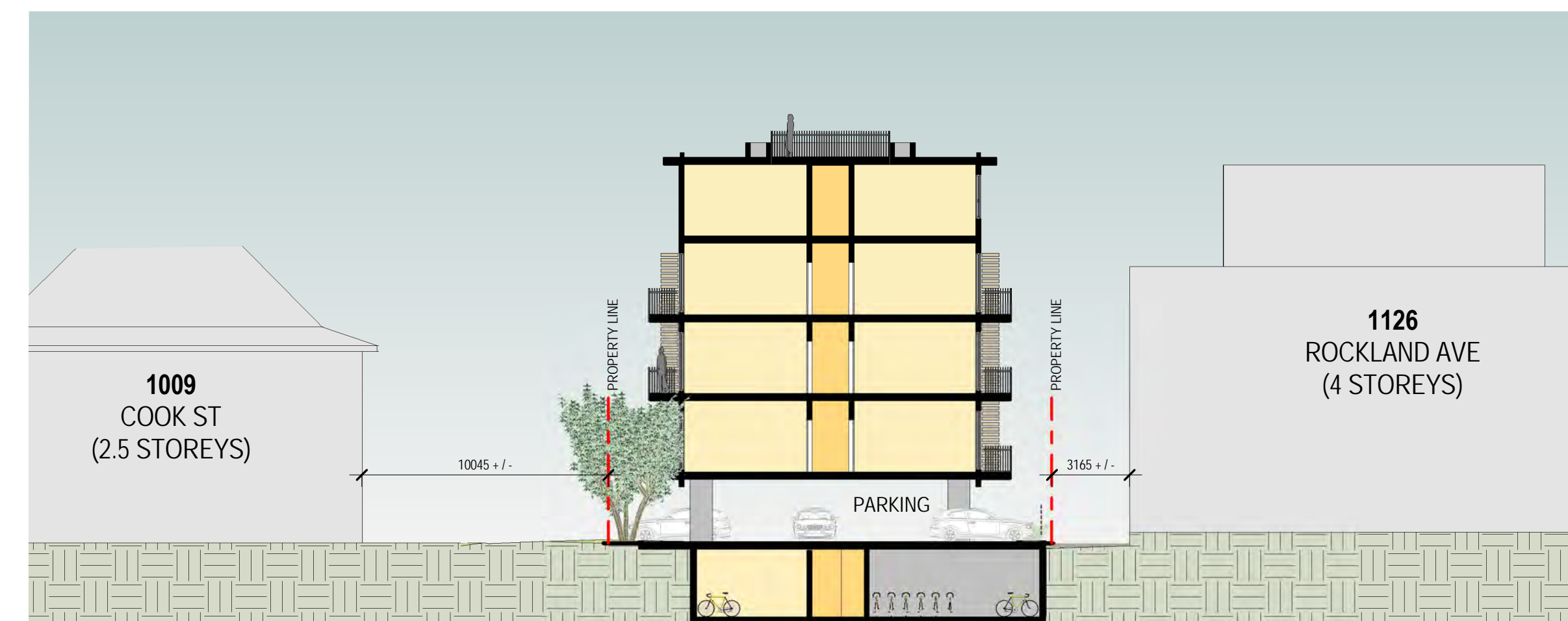
① SECTION - LONG
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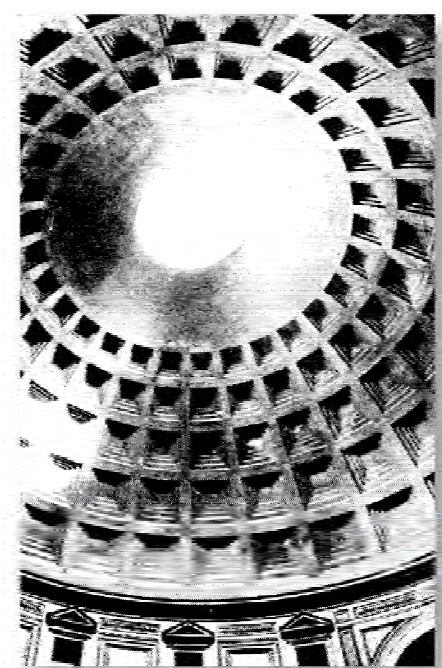
② SECTION - SHORT
1 : 100



③ SITE SECTION - LONG
1 : 200



④ SITE SECTION - SHORT
1 : 200



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ROCKLAND REDEVELOPMENT

1114 Rockland Ave Victoria, BC
PROJECT NO.18-016

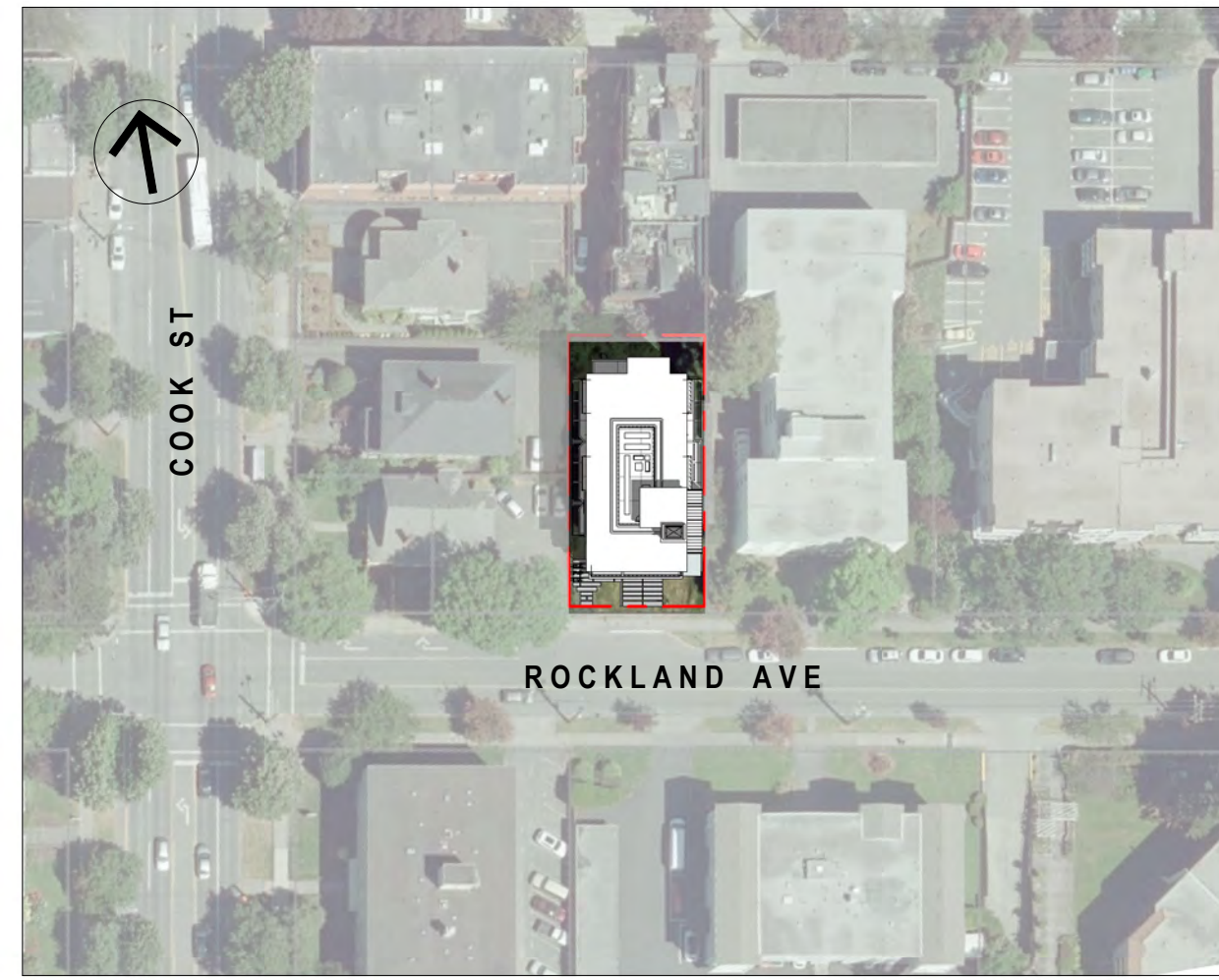
SECTIONS

2020.04.14 - REVISED REZONING / DP

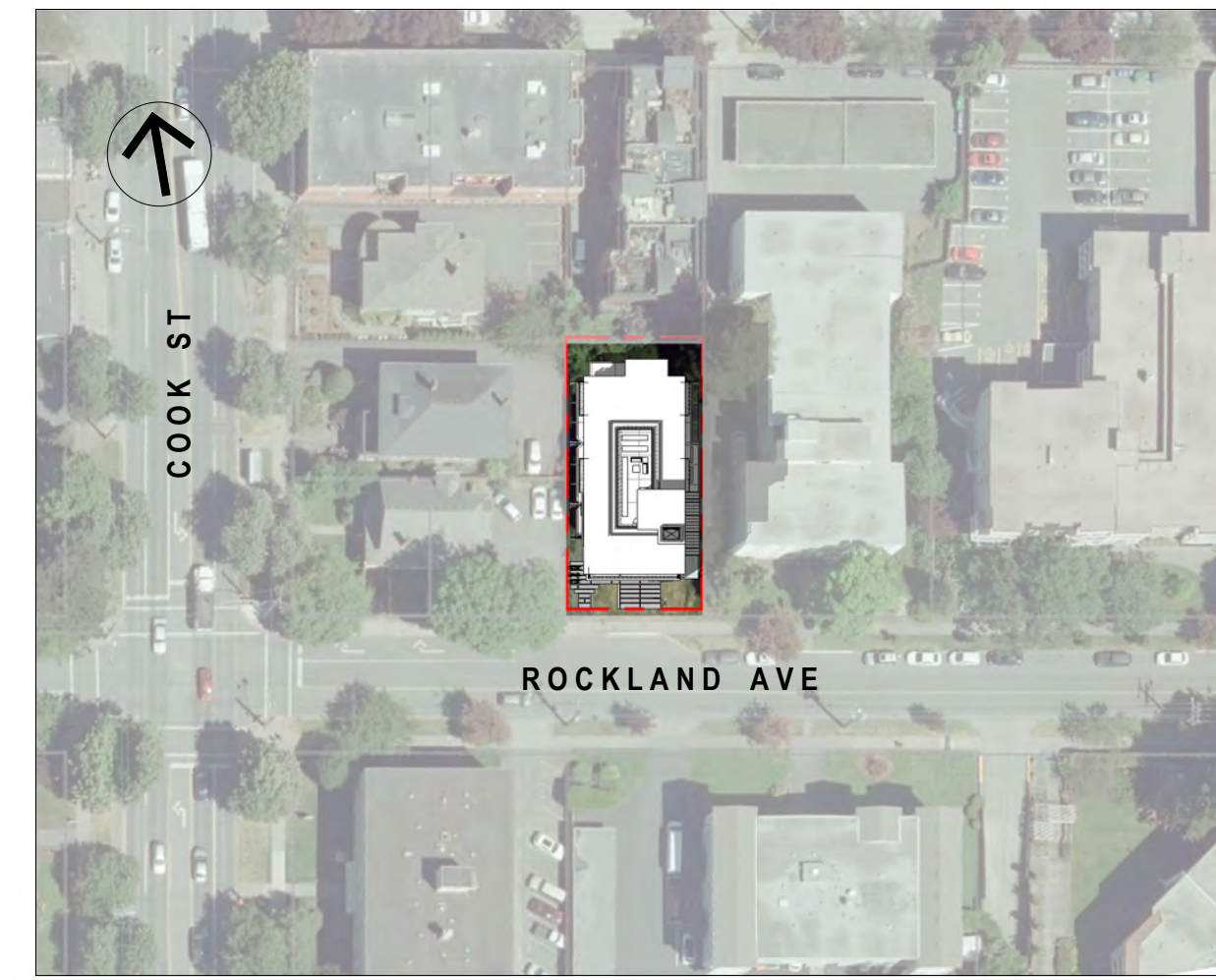
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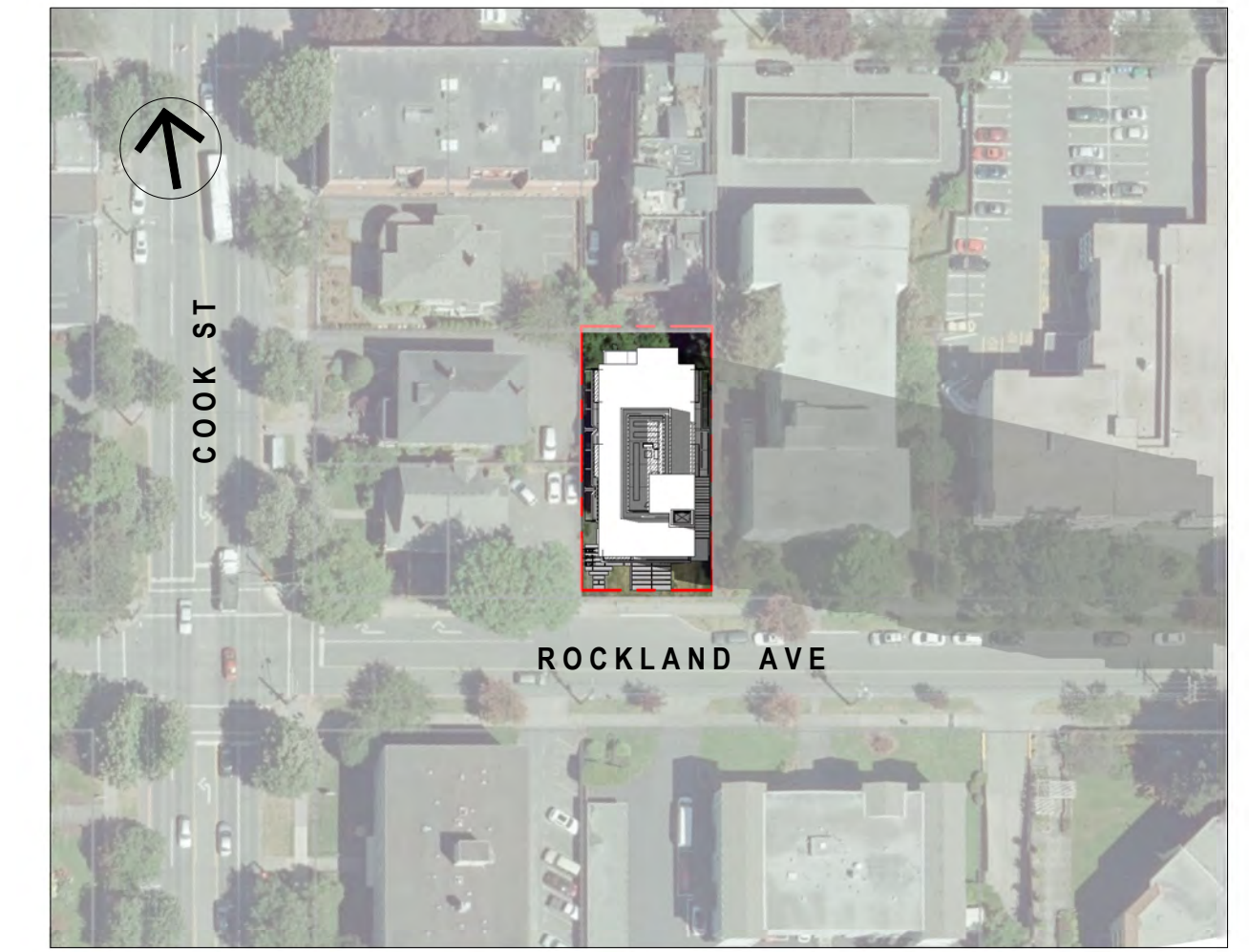
① SUMMER 6:42AM
1 : 1000



② SUMMER 12PM
1 : 1000

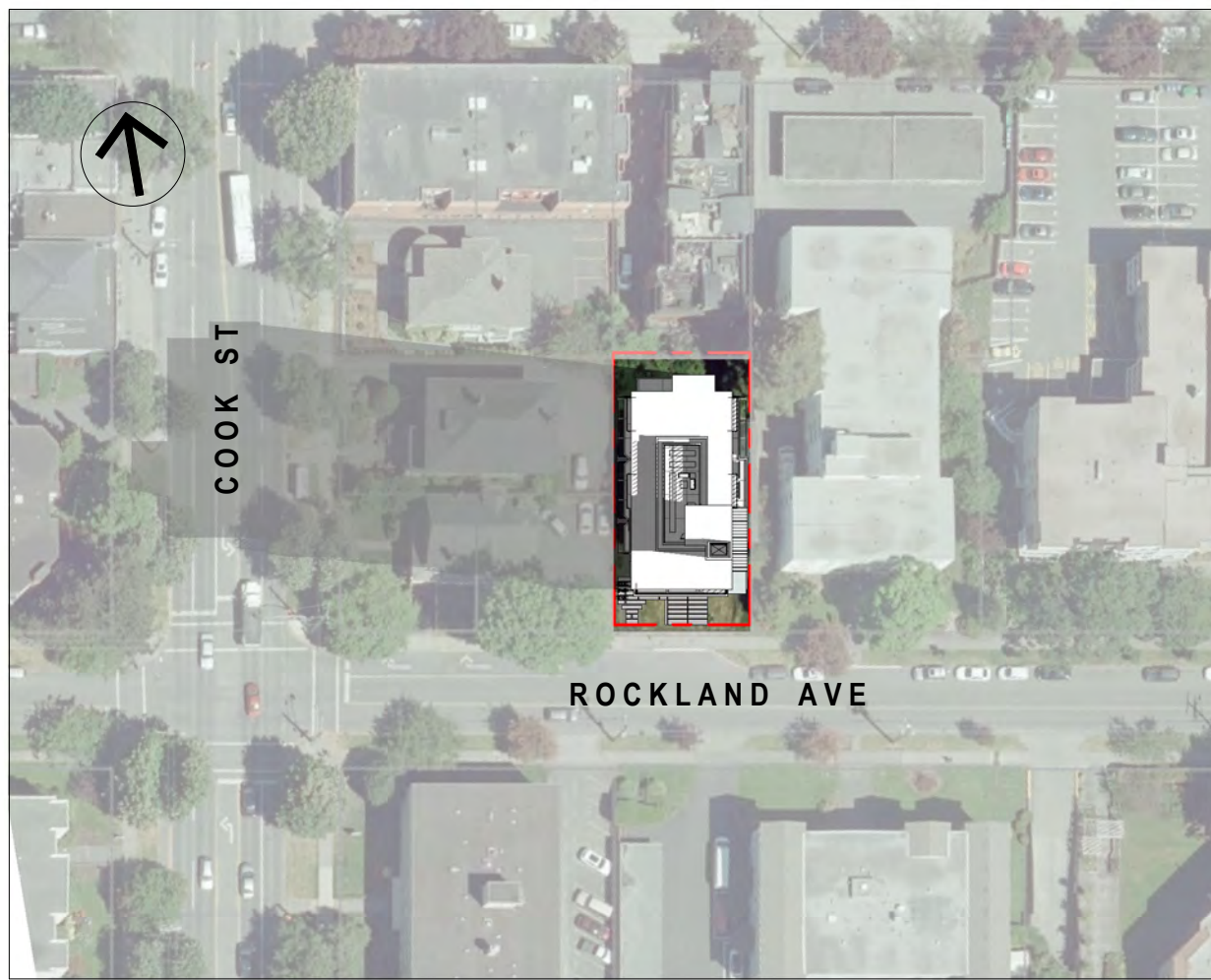


③ SUMMER 4PM
1 : 1000



④ SUMMER 7:42PM
1 : 1000

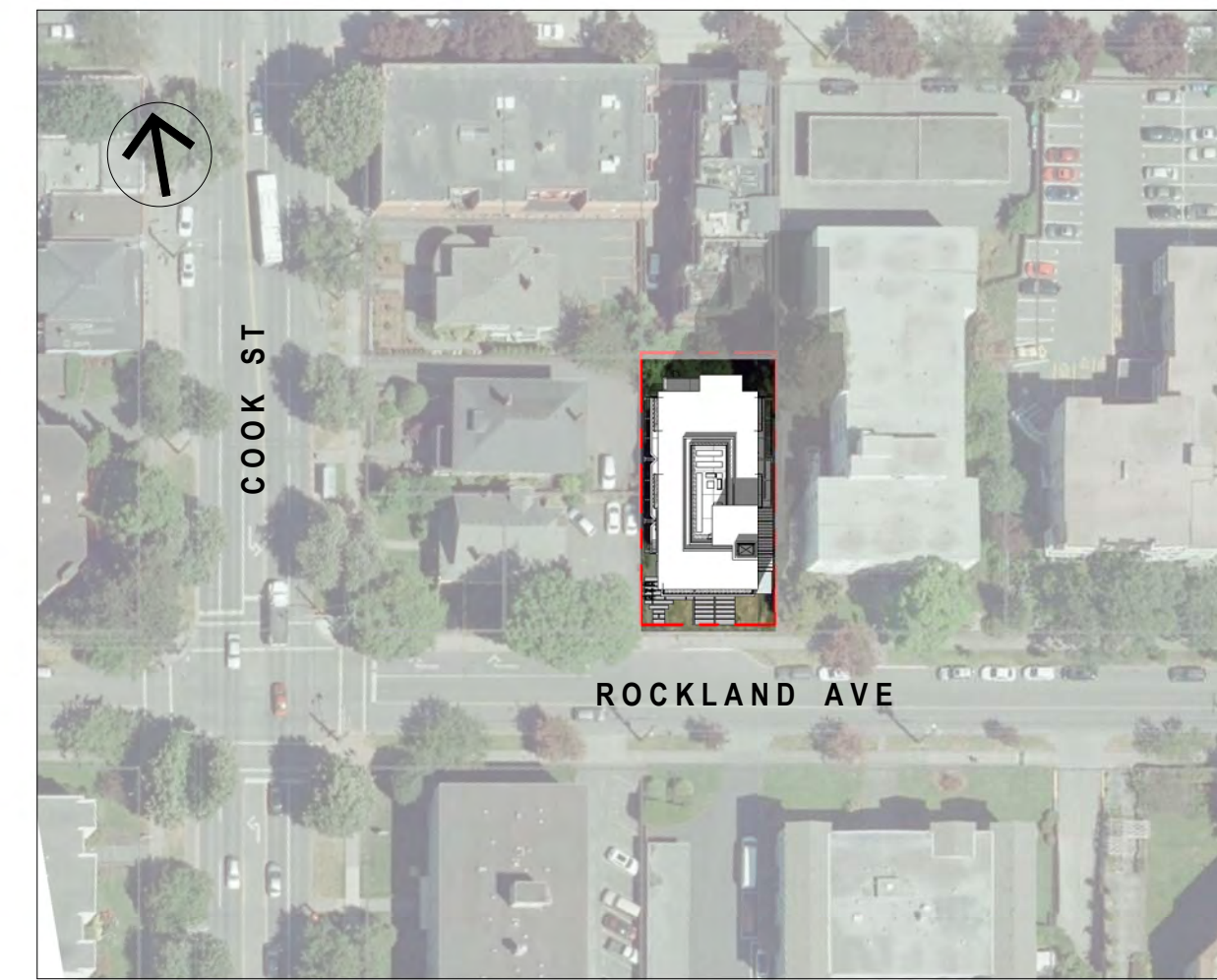
SUMMER SOLSTICE - JUNE 21



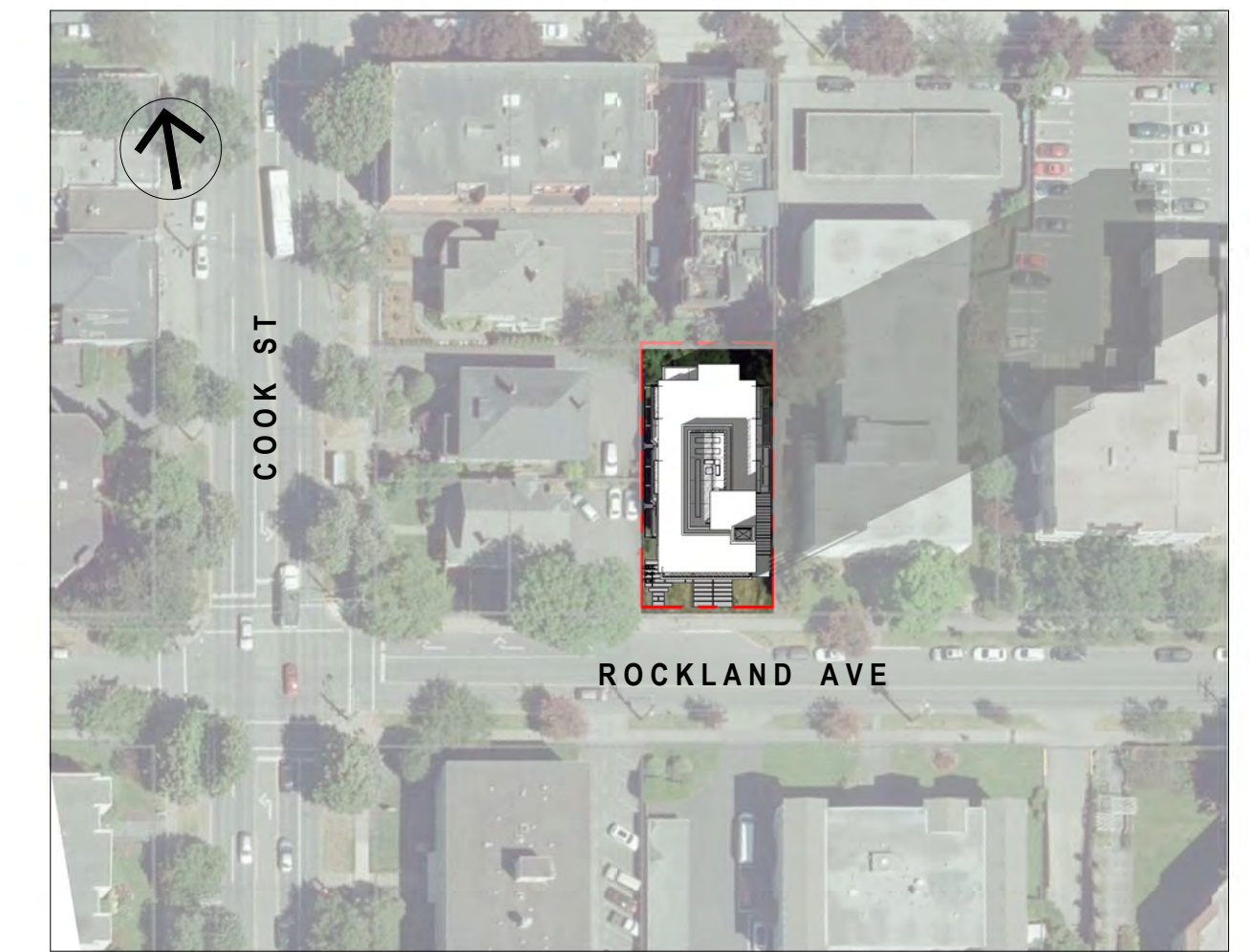
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⑥ SPRING / FALL 12PM
1 : 1000

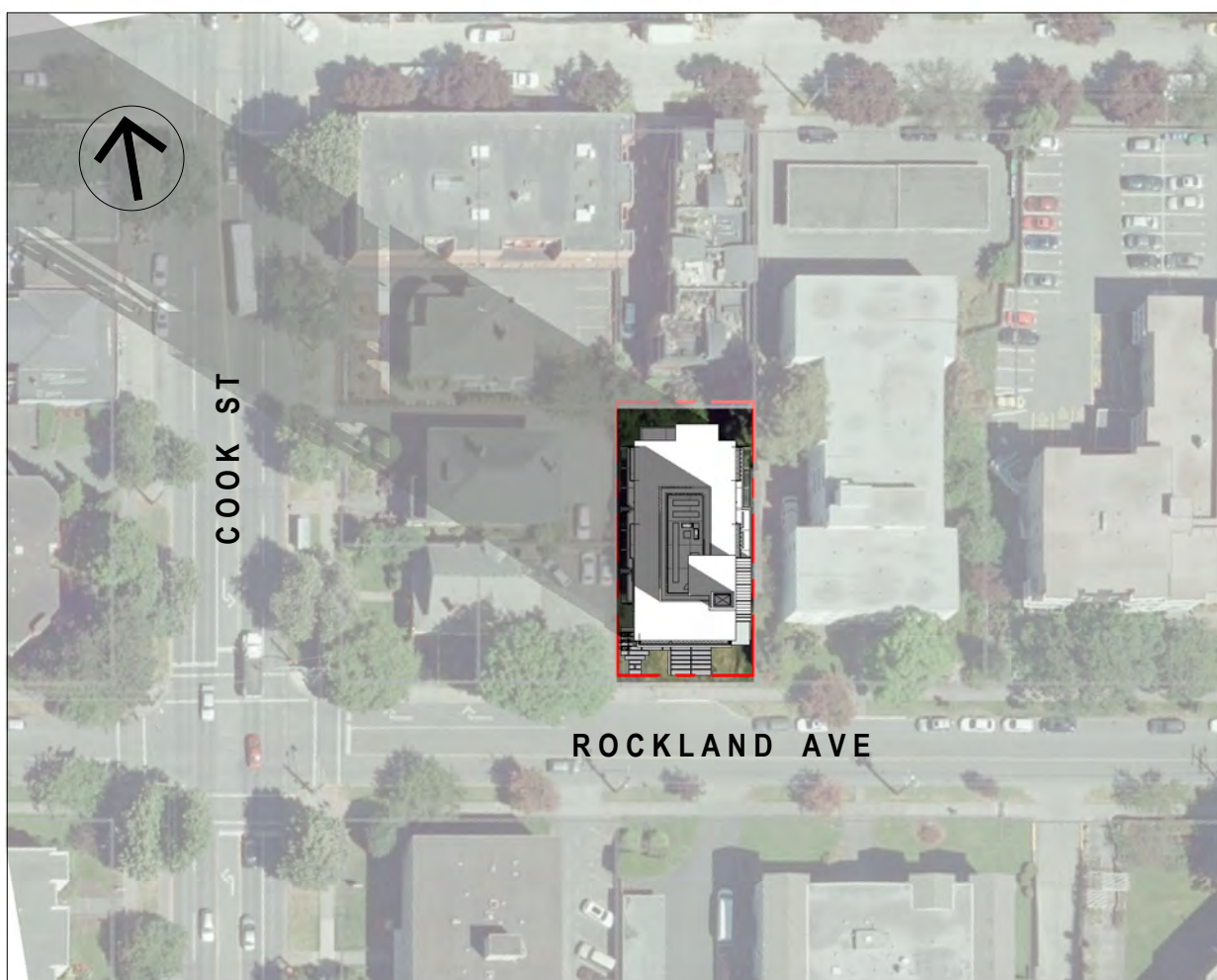


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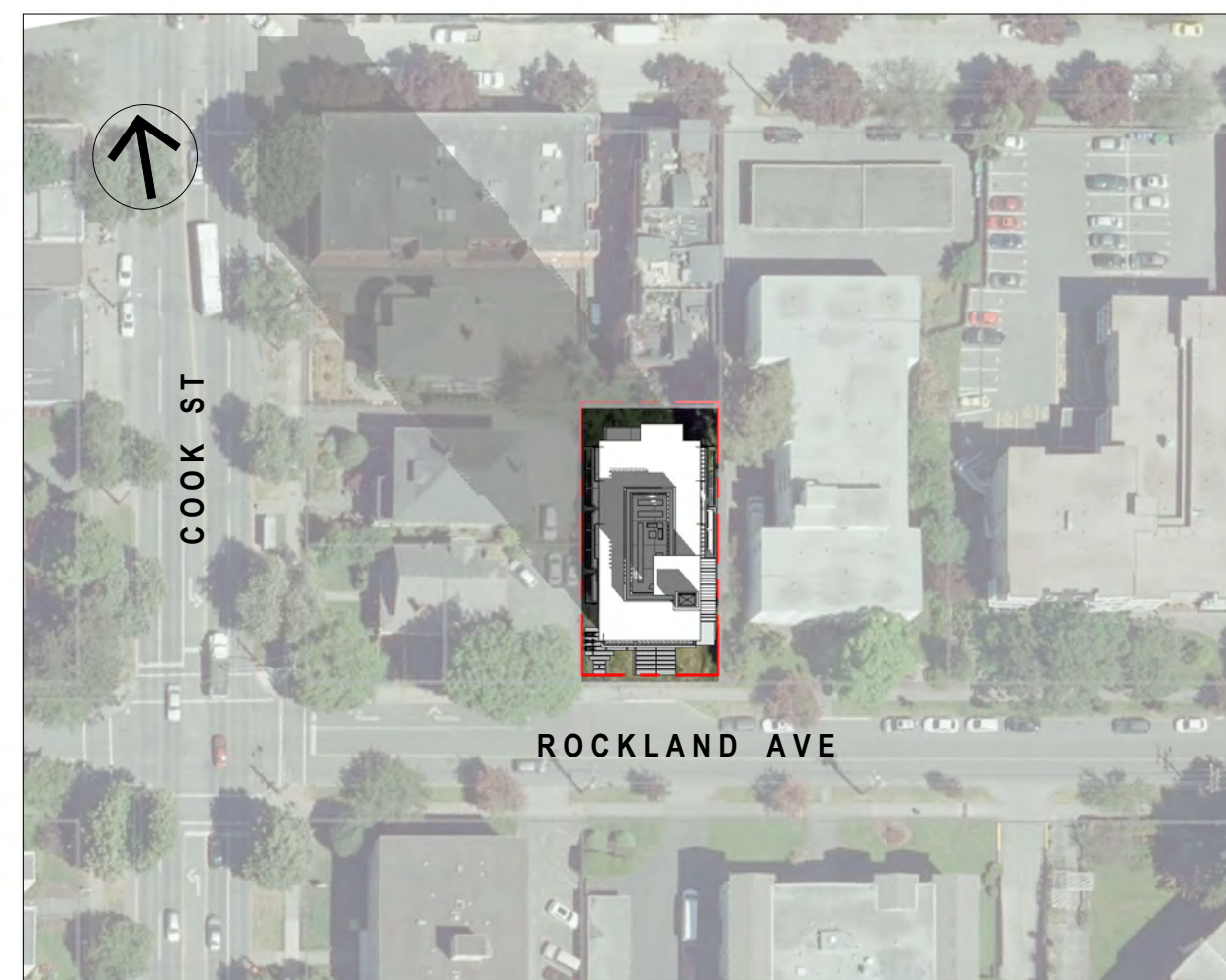


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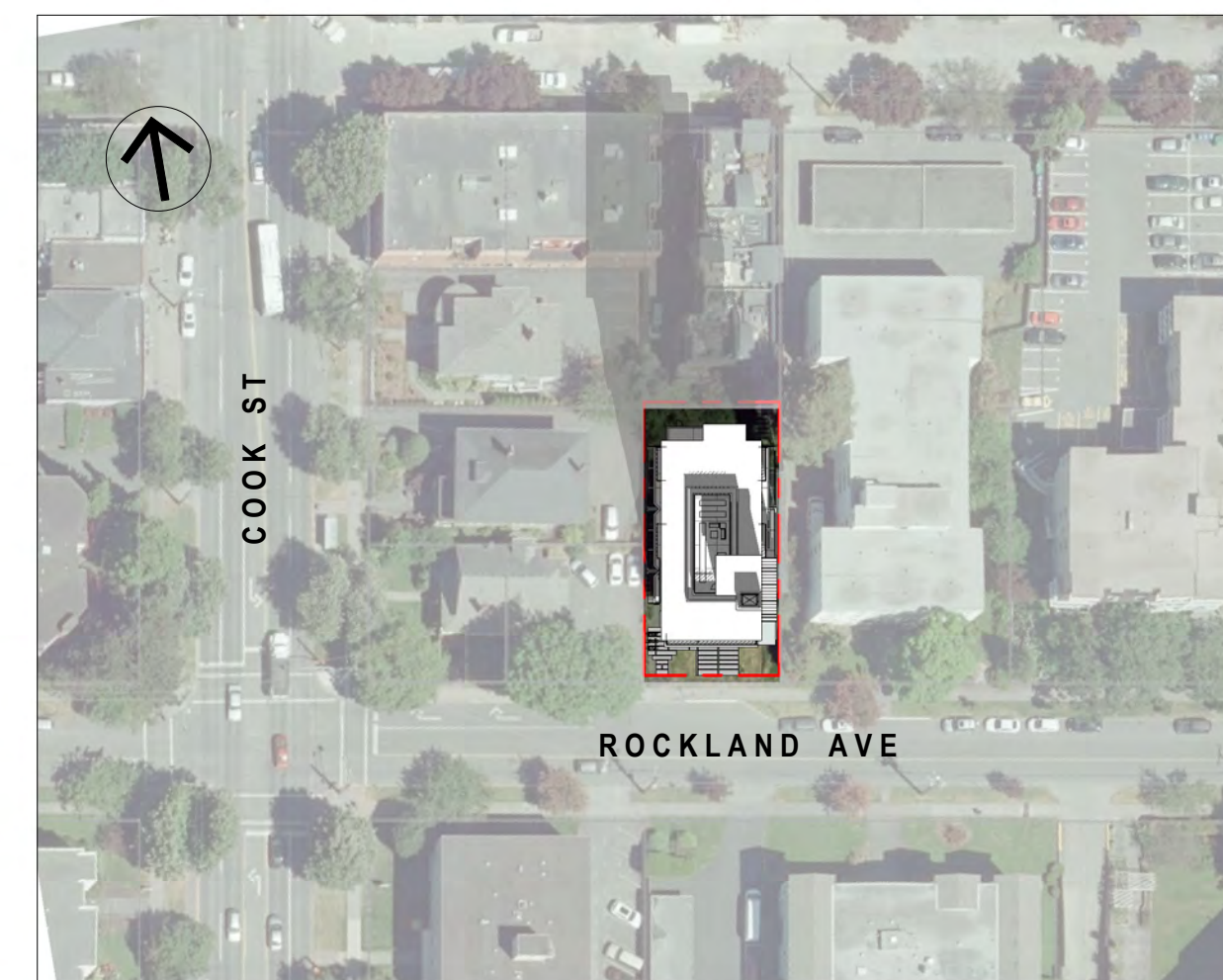
SPRING / FALL EQUINOX - MARCH 21 / SEPTEMBER 21



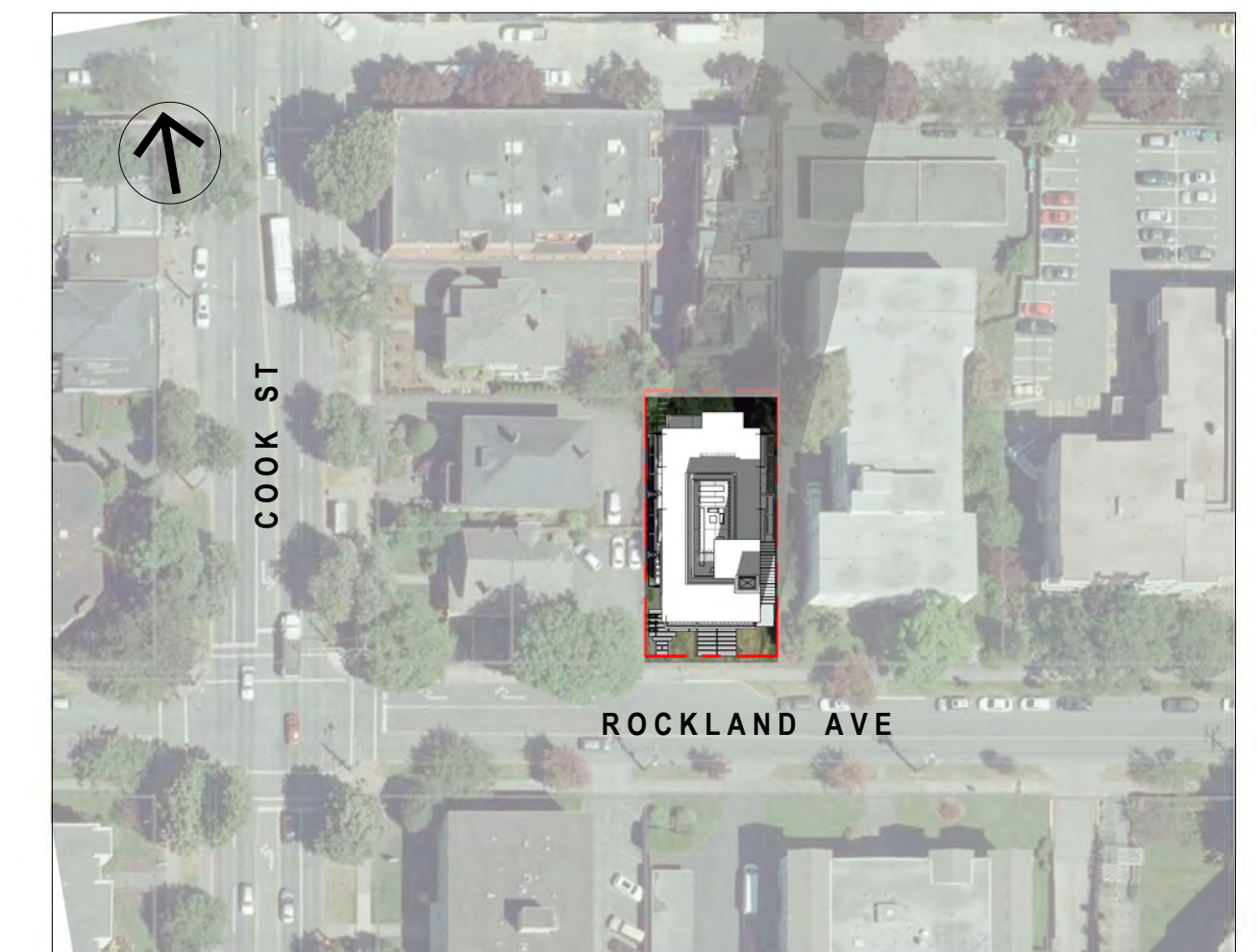
⑨ WINTER 9:32AM
1 : 1000



⑩ WINTER 11AM
1 : 1000



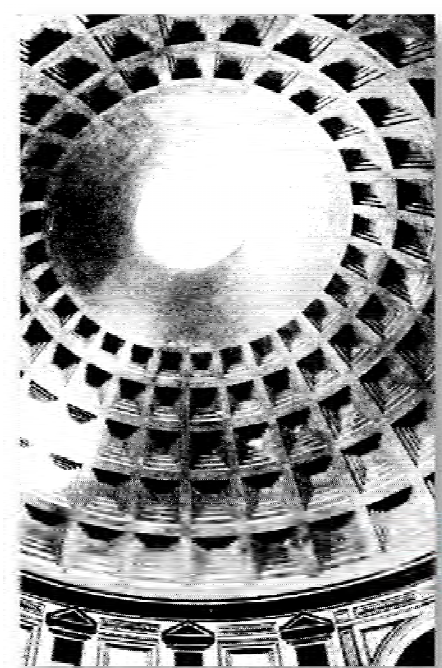
⑪ WINTER 1PM
1 : 1000



⑫ WINTER 2:51PM
1 : 1000

WINTER SOLSTICE - DECEMBER 21

NOTE: ALL SHADOWS SHOWN 1.5 HOURS AFTER SUNRISE AND 1.5 HOURS BEFORE SUNSET



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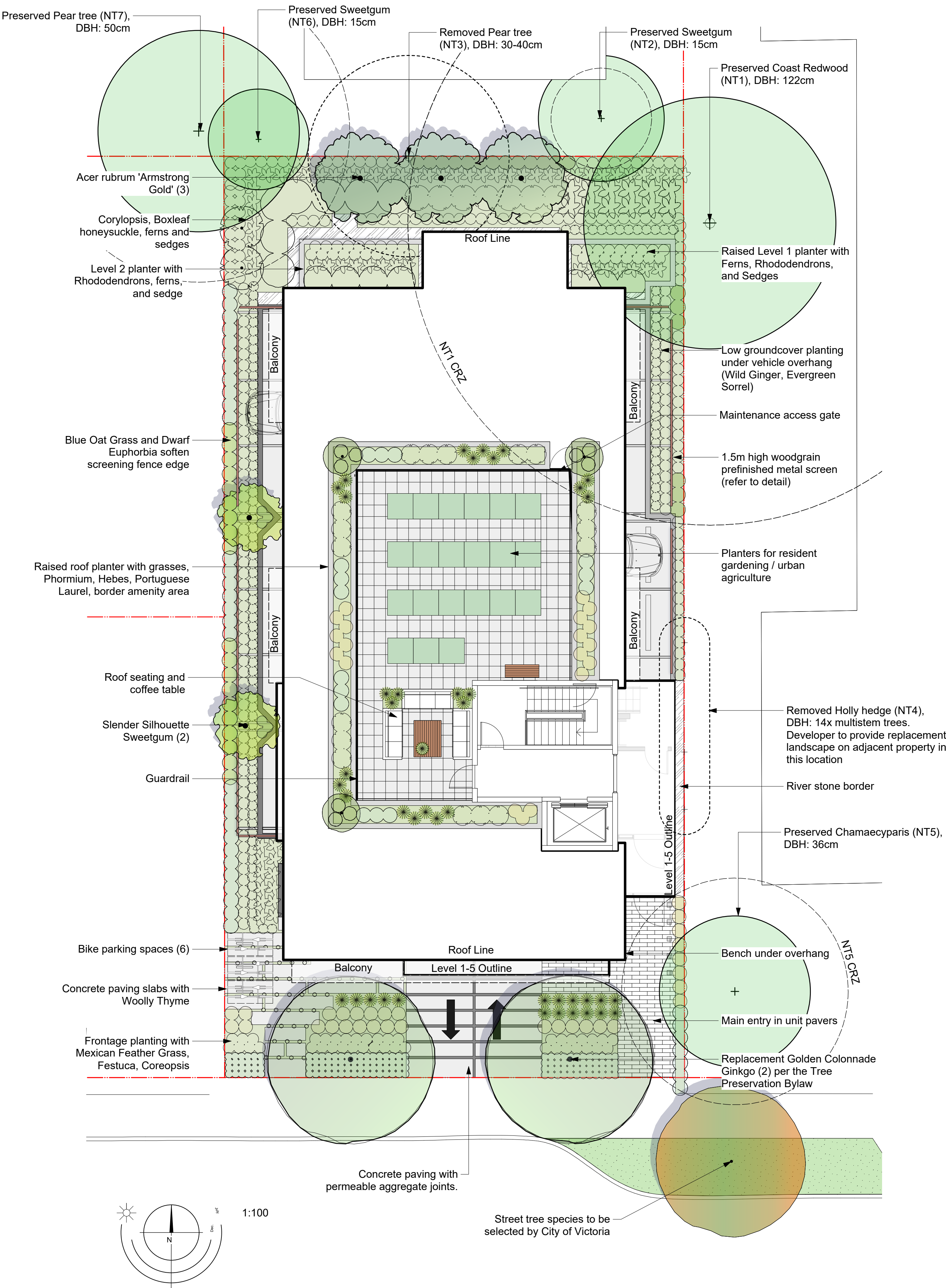
ROCKLAND REDEVELOPMENT

1114 Rockland Ave Victoria, BC
PROJECT NO.18-016

SHADOW STUDY

2019.07.24 - REZONING APPLICATION

A8



Reference Images



Ginkgo biloba 'Golden Colonnade'



Acer rubrum 'Armstrong Gold'



Slender Silhouette Sweetgum



Dwarf New Zealand Flax



Boxleaf Honeysuckle



Spurge



Mexican Feather Grass



Blue oat Grass

Recommended Nursery Stock

Trees

8

Botanical Name	Common Name	Size
Acer rubrum 'Armstrong Gold'	Armstrong Gold Red Maple	6cm cal.
Ginkgo biloba 'Golden Colonnade'	Maidenhair Tree	6cm cal.
Liquidambar styraciflua 'Slender Silhouette'	Slender Silhouette Sweetgum	6cm cal.
TBD	Typical Street Tree	6cm cal.

Large Shrubs

3

Botanical Name	Common Name	Size
Prunus lusitanica	Portugal Laurel	#10 pot

Medium Shrubs

23

Botanical Name	Common Name	Size
Corylopsis pauciflora	Buttercup Winterhazel	#5 pot
Lonicera pileata	Box-leaf Honeysuckle	#3 pot
Rhododendron 'Nancy Evans'	Nancy Evans Rhododendron	#3 pot
Rhododendron 'Rosa Mundi'	Rosa Mundi Rhododendron	#5 pot

Small Shrubs

30

Botanical Name	Common Name	Size
Hebe pinguifolia 'Sutherlandii'	Sutherland Hebe	#2 pot
Mahonia repens	Creeping Oregon Grape	#1 pot

Perennials, Annuals and Ferns

662

Botanical Name	Common Name	Size
Calamagrostis x acutiflora 'Karl Foerster'	Foerster's Feather Reed Grass	#1 pot
Carex oshimensis 'Evergold'	Evergold Sedge	#1 pot
Chasmanthium latifolium	Northern Sea Oats	#1 pot
Coreopsis verticillata 'Moonbeam'	Moonbeam Threadleaf Tickseed	#1 pot
Dryopteris erythrosora	Autumn Fern	#1 pot
Euphorbia characias ssp. characias 'Shorty'	Dwarf Spurge	#1 pot
Helictotrichon sempervirens	Blue Oat Grass	#1 pot
Nassella tenuissima	Mexican Feather Grass	#1 pot
Phormium tenax 'Tiny Tiger'	Dwarf Variegated New Zealand Flax	#1 pot
Polystichum munitum	Sword Fern	#1 pot
Thymus praecox arcticus	Wild Creeping Thyme	#1 pot

Groundcovers

177

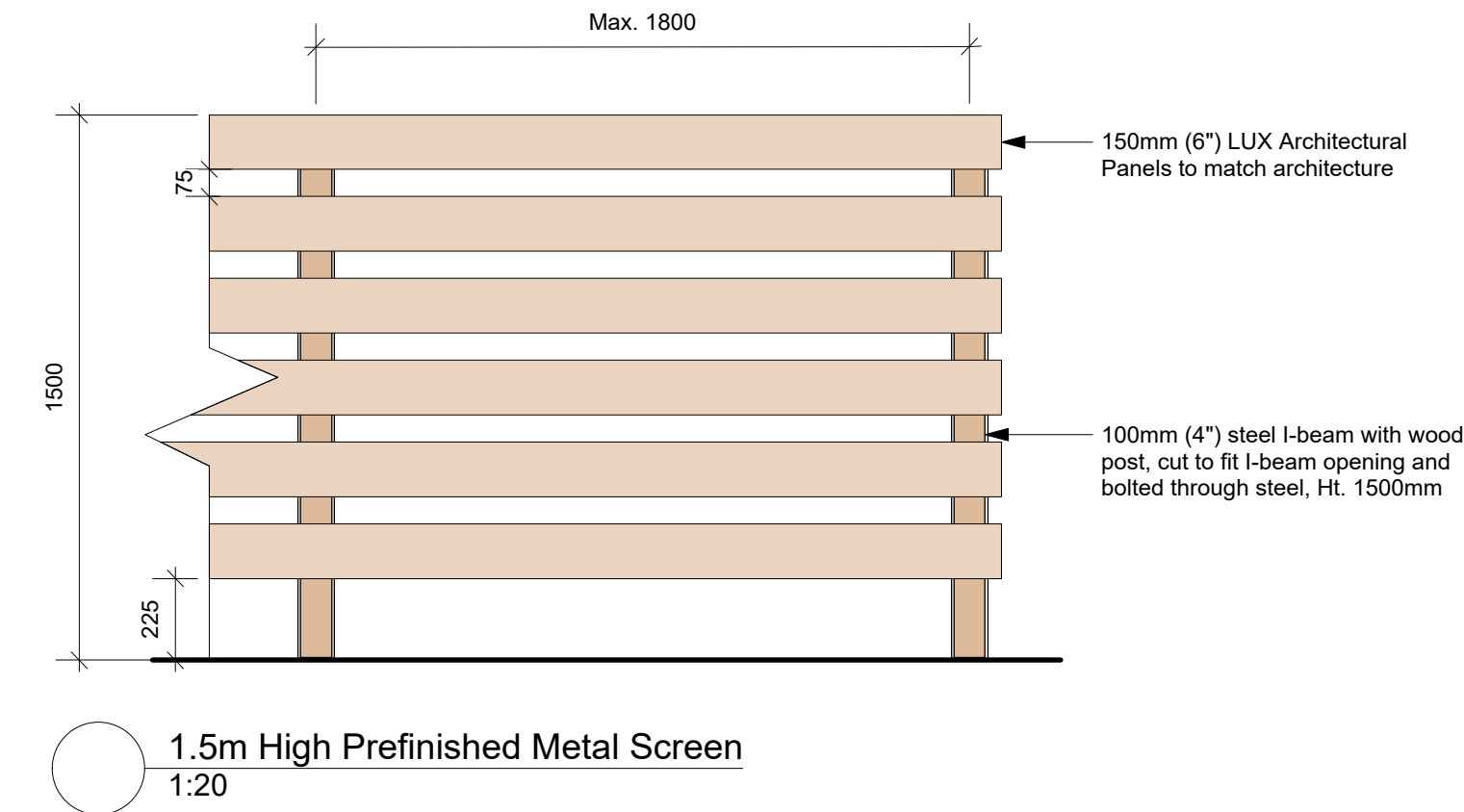
Botanical Name	Common Name	Size
Arctostaphylos uva ursi 'Vancouver Jade'	Vancouver Jade Kinnickinnick	#1 pot
Asarum caudatum	Wild Ginger	SP4
Oxalis oregana	Evergreen Sorrel	SP4
Thymus pseudolanuginosus	Woolly Thyme	SP3

Notes:

- All work to be completed to current BCSLA Landscape Standards
- All soft landscape to be irrigated with an automatic irrigation system



Resident gardening planters



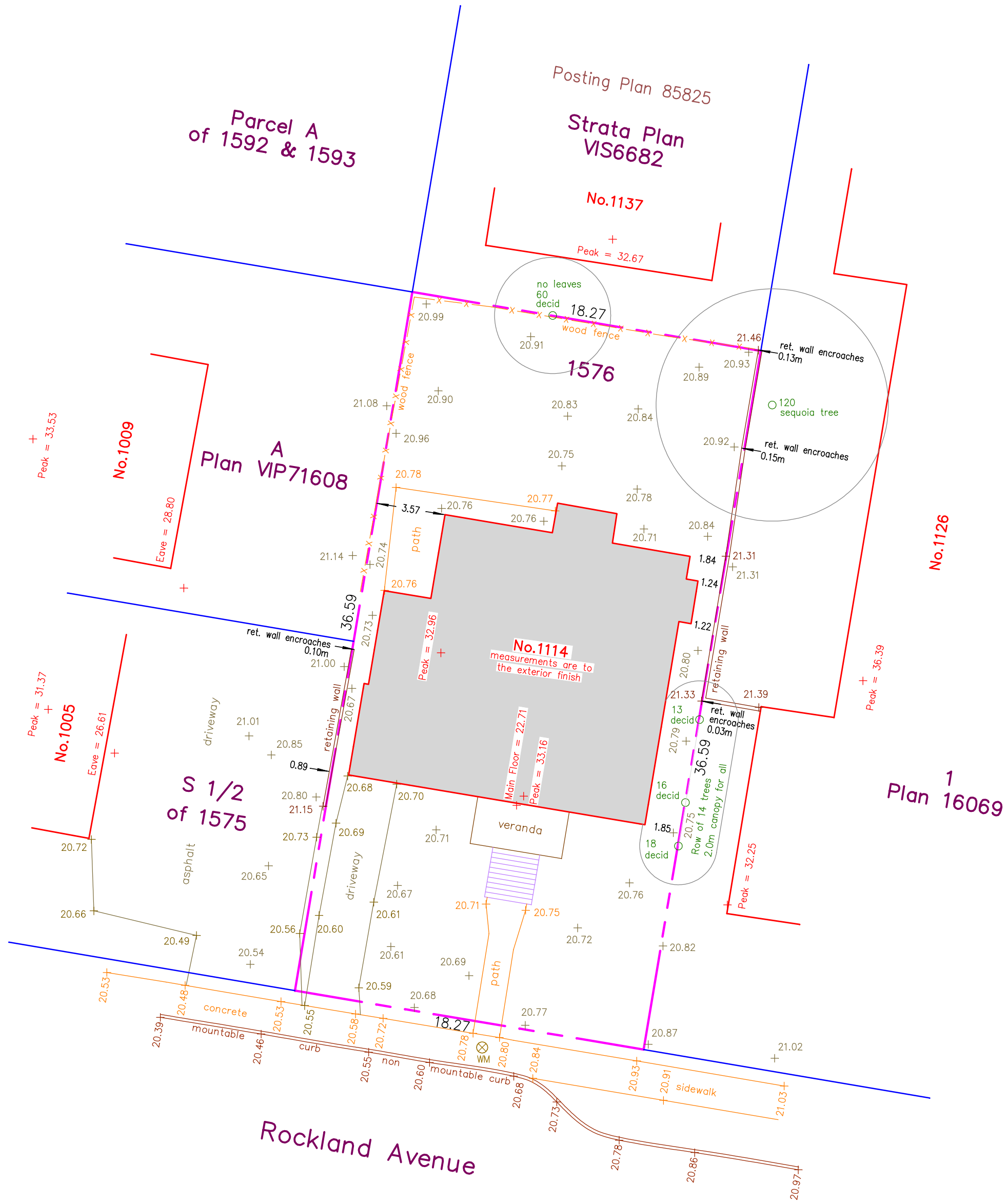
1114 Rockland - Landscape Concept Plan

BC LAND SURVEYORS SITE PLAN OF:
Civic: 1114 Rockland Aveue
Legal Lot 1576, Victoria City

Parcel Identifier: 005-212-332 in the City of Victoria
Scale - 1 : 2 0 0 Distances are in metres.
0 2 10 20
The intended print size is 11" by 17".

August 06, 2019

File : 12,873 - 9
POWELL & ASSOCIATES
B C Land Surveyors
250-2950 Douglas Street
Victoria, BC V8T 4N4
phone (250) 382-8855



LEGEND
Elevations are to geodetic datum.
+ - denotes - existing elevation
WM - denotes - Water Meter
Tree diameters are in centimetres.
Lot Area = 668.5m2

The following non-financial charges are shown on the current title and may affect the property.
M76301 - Undersurface Rights

Setbacks are derived from field survey.
Parcel dimensions shown hereon are derived from Land Title Office records.
This document shows the relative location of the surveyed features and shall not be used to define property boundaries.



Committee of the Whole Report

For the Meeting of November 12, 2020

To: Committee of the Whole **Date:** October 22, 2020

From: Karen Hoese, Director, Sustainable Planning and Community Development

Subject: Development Permit with Variances Application No. 00140 for 1114 Rockland Avenue

RECOMMENDATION

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00711, if it is approved, consider the following motion:

“That Council authorize the issuance of Development Permit with Variance Application No. 00140 for 1114 Rockland Avenue, in accordance with:

1. Plans date stamped June 29, 2020.
2. Revisions to the plans to shift the location of the sidewalk to the property line and adjust the landscaping along the street frontage to the satisfaction of the Director of Sustainable Planning and Community Development.
3. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. reduce the vehicle parking from 17 stalls to 12 stalls;
 - ii. reduce the west side setback from 3 metres to 2 metres;
 - iii. reduce the east side setback from 3 metres to 0.35 metres (lobby only)
4. The Development Permit lapsing two years from the date of this resolution.”

LEGISLATIVE AUTHORITY

In accordance with Section 489 of the *Local Government Act*, Council may issue a Development Permit in accordance with the applicable guidelines specified in the *Official Community Plan*. A Development Permit may vary or supplement the *Zoning Regulation Bylaw* but may not vary the use or density of the land from that specified in the Bylaw.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Permit with Variances Application for the property located at 1114 Rockland

Avenue. The proposal is to construct a five-storey building (four levels of housing over one level of parking) with multiple dwellings. The variances are related to decreased parking and side yard setbacks.

The following points were considered in assessing this application:

- the proposal is generally consistent with the objectives and guidelines contained in Development Permit Area 16: General Form and Character of the *Official Community Plan, 2012* (OCP) and would integrate new multi-unit development in a manner that compliments and enhances the place character of the area
- the parking variance is considered supportable as the applicant is proposing Transportation Demand Management (TDM) measures to mitigate the potential impacts from this variance which would be secured by legal agreement in conjunction with the concurrent Rezoning Application
- the west side yard setback variance is considered supportable as the majority of the building would be setback three metres, which is similar or greater than side yard setbacks in the immediate context
- the east side yard setback variance is considered supportable as the 0.35m setback would only apply to the building lobby; the majority of the building would be setback three metres, maintaining a setback which is consistent with the context.

BACKGROUND

Description of Proposal

The proposal is to construct a five-storey residential building with approximately 22 dwelling units. Specific details include:

- contemporary architectural expression that incorporates durable and contextually appropriate materials
- under building parking accessed via Rockland Avenue and screened with a secure metal gate
- a common residential entryway located on the east side of the building fronting Rockland Avenue
- a common amenity room located at-grade fronting Rockland and designed as a bike repair and general workspace for residents of the building
- a basement level that accommodates storage and a bike room with 44 bike parking stalls.

Exterior materials include:

- white and grey stucco
- standing seam metal panels
- metal panels with a wood grain finish
- aluminium picket guard rails
- metal fascia, soffits, privacy screens between balconies and parking stall screens.

Landscape features include:

- private balconies for each unit
- extensive front and rear landscaping
- common rooftop amenity space
- outdoor bench seating with trellis located at the main entry

- six-stall bicycle rack located at the front of the building
- unit pavers, concrete slabs and paving with permeable aggregate joints for front yard hardscaped areas
- one new street tree and seven new trees on site
- five neighbouring trees preserved including a large Coast redwood tree located at 1126 Rockland Avenue
- replacement of a Holly hedge located at 1126 Rockland Avenue with new landscaping.

The proposed variance relates to reducing the vehicle parking from 17 stalls to 13 stalls and reducing the side yard setbacks for portions of the east and west elevations.

Sustainability

As indicated in the applicant's letter dated July 31, 2019, the following sustainability features are associated with this proposal:

- use of high performance, durable and resilient exterior materials
- building design and construction that are air-tight and minimizes thermal bridging to reduce heat loss and energy demand
- transportation demand management measures to reduce vehicle use and transportation emissions
- parking stalls with electric vehicle charging capacity.

Data Table

The following data table compares the proposal with the existing R3-A1 Zone, Low Profile Multiple Dwelling District. An asterisk is used to identify where the proposal does not meet the requirements of the existing zoning. A double asterisk indicates where the proposal is legal non-conforming in relation to the existing zoning. Additionally, the key City policy that pertains to the area has been included in this table.

Zoning Criteria	Proposal	Zone Standard	OCP and Fairfield Neighbourhood Plan Policy
Site area (m ²) – minimum	669**	920	-
Density (Floor Space Ratio) – maximum	2:1*	1:1	1.5:1 – 3:1
Height (m) – maximum	15.87* (main roof) 18.90* (roof top access)	10.70	20
Storeys – maximum	5* (plus rooftop access)	3	6
Site coverage (%) – maximum	62.40*	33.33	-
Open site space (%) – minimum	28.80*	30	-

Zoning Criteria	Proposal	Zone Standard	OCP and Fairfield Neighbourhood Plan Policy
Setbacks (m) – minimum			
Front (Rockland Avenue)	3.77*	7.50	Three to five storey buildings define the street wall Buildings with landscaped setbacks in more residential areas
Rear (S)	3.33*	9.00 (for portions of a building less than 7m in height) 10.50 (for portions of a building greater than 7m in height)	
Side (E)	0.35* (to main entry) 3.00* (to building) 1.74* (to balconies)	9.45 (half the building height)	
Side (W)	2.07* (to building) 1.77* (to balconies)	9.45 (half the building height)	
Vehicle parking – minimum	12*	17	-
Visitor vehicle parking included in the overall parking – minimum	2	2	-
Bicycle parking stalls – minimum			
Long term	44	24	-
Short term	6	6	-

ANALYSIS

Development Permit Area and Design Guidelines

The subject property is located in Development Permit Area 16: General Form and Character. This DPA seeks to integrate new multi-unit residential development in a manner that is complementary to the place character of the neighbourhood. Enhancing the character of the streetscape through high quality, human-scaled architecture, landscape and urban design is also a key objective of this DPA. The applicable design guidelines are the *Design Guidelines for Multi-Unit Residential, Commercial and Industrial Development* (2012), *Advisory Design Guidelines for Buildings, Signs and Awnings* (2006) and the *Guidelines for Fences, Gates and Shutters* (2010). The proposal is consistent with these Guidelines as follows:

- the building height, massing and setbacks are generally consistent with other multi-unit residential buildings in the immediate context
- building entrances and windows face the street
- the proposed building is setback from the street to allow for some landscaping and enhanced pedestrian space

- the contemporary design incorporates materials and colours that are contextually appropriate, durable, and add to the character of the street
- common outdoor space has been landscaped with a combination of native, edible and pollinator plants
- parking is located under the building and screened from view. While underground parking is typically preferable, the provision of at-grade, screened parking is supportable as it limits the depth of excavation within the critical root zone of the large Coast redwood tree located on the adjacent property.

Fairfield Neighbourhood Plan

The subject site is located within the Fort Street corridor in the northwest portion of the Fairfield Neighbourhood. The Fairfield Neighbourhood Plan (2019) provides policy for land development in this area consistent with the OCP. The area is characterized by low-rise residential buildings with mixed-use and commercial buildings fronting onto more major roads (e.g. Fort Street and Cook Street). To reinforce the existing pattern and rhythm of small-scale commercial, residential and heritage character in the area, the plan envisions a continuation of this mix of uses with increased densities, building heights up to six-storeys and front yard landscaping that provide attractive walking environment along residential streets such as Rockland Avenue. The proposed development is generally consistent with these policies.

Regulatory Considerations

A variance is requested to reduce the required number of parking stalls from a total of 17 (as per Schedule C of the *Zoning Regulation Bylaw*) to 12 (see table below).

Zoning Criteria	Proposal	Schedule C
Vehicle parking stalls – minimum		
Parking	10*	15
Visitor Parking	2	2
Bicycle parking stalls – minimum		
Long Term	44	24
Short Term	6	6

This variance is considered supportable because the applicant is proposing the following Transportation Demand Management (TDM) measures to mitigate the potential impacts from this variance:

- car share memberships (one for each dwelling unit)
- \$100 car share credit per membership
- additional long-term bike parking beyond what is required in the *Zoning Regulation Bylaw*
- a bicycle maintenance area
- a BC Transit bus pass subsidy of at least \$22,500 for future residents.

These TDM measures would be secured by legal agreement as a condition of the Rezoning Application. It is also worth noting that the location of the site is in close proximity to services in the Downtown and Cook Street Village and is close to major transit routes.

Variances are also requested to reduce the east side yard setback from 3.00m to 0.35m and the west side yard setback from 3.00m to 2.00m. The east side yard setback variance would accommodate the ground floor lobby, while the majority of the building would be setback 3.00m from the property line. To help mitigate the impact of the reduced setback, the applicant will provide landscaping on the neighbouring property at 1126 Rockland Avenue. The west side yard setback would accommodate a projection portion of the building which provides articulation that helps break up the massing as encouraged by the Design Guidelines. The heritage designated buildings to the west of the subject site front onto Cook Street and have parking located in the rear yard. Separation between the heritage buildings and the proposed building, which ranges from 12.8m (1009 Cook Street) and 13.7m (1005 Cook Street), provides sufficient breathing room with the heritage buildings, and minimizes privacy impacts and shadowing.

Advisory Design Panel

The proposal was presented to the Advisory Design Panel (ADP) at a meeting on February 26, 2020. The meeting minutes are attached to this report. The ADP motion recommended that the application be declined due to the proposed setbacks.

In response to the ADP motion the applicant has updated the application to include:

- supplementary drawings including a setback diagram and south elevation detail
- additional context renderings of the proposed building.

These updates provide a better understanding of how the proposed massing, setbacks and character are appropriate given the surrounding Core Residential context which includes several existing or recently approved multi-unit residential developments with similar or lesser setbacks.

CONCLUSIONS

The proposal to construct a five-storey multi-unit residential building is considered consistent with Development Permit Area 16: General Form and Character. The building would integrate with the existing residential context, be sympathetic to the adjacent heritage buildings and provide pedestrian interest. The proposal includes appropriate mitigation measures to off-set the proposed variances and is considered supportable. Therefore, staff recommend that council consider approving the application.

ALTERNATE MOTION

That Council decline Development Permit with Variances Application No. 00140 for the property located at 1114 Rockland Avenue.

Respectfully submitted,



Alec Johnston
Senior Planner
Development Services Division



Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:

Date: _____

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped June 29, 2020
- Attachment D: Letter from applicant to Mayor and Council dated July 31, 2019, amended April 17, 2020
- Attachment E: Community Association Land Use Committee meeting summary dated June 27, 2019
- Attachment F: Letter from the Capital Regional District regarding below-market housing dated January 27, 2020
- Attachment G: Arborist Report dated November 1, 2019
- Attachment H: Arborist Report Addendum dated August 15, 2020
- Attachment I: Advisory Design Panel meeting minutes dated February 26, 2020
- Attachment J: Correspondence (Letters received from residents).

F. LAND USE MATTERS

F.1 1114 Rockland Avenue: Rezoning Application No. 00711 and Development Permit with Variances Application No. 00140 (Fairfield)

Councillor Isitt withdrew from the meeting at 10:26 a.m. and returned at 10:37 a.m.

Committee received a report dated October 22, 2020 from the Director of Sustainable Planning and Community Development regarding a proposal to construct a five-storey building with multiple dwellings on the property located at 1114 Rockland Avenue.

Committee discussed:

- *Concerns with the number of trees that will be lost in the proposal*
- *Concerns with the amount of surface parking*

Moved By Mayor Helps

Seconded By Councillor Loveday

Rezoning Application No. 00711

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00711 for 1114 Rockland Avenue, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Secure an amenity contribution in the amount of \$144,021.20 towards the Victoria Housing Reserve Fund (70%) and Local Amenities Fund (30%), to the satisfaction of the Director of Sustainable Planning and Community Development.
2. Secure two one-bedroom units to be sold at a minimum of 10% below market rate (below-market ownership units) in perpetuity, to the satisfaction of the Director of Sustainable Planning and Community Development.
3. Preparation and execution of legal agreements for the following:
 - a. to ensure that future strata bylaws cannot restrict the rental of units to nonowners (with the exception of two below-market ownership units), to the satisfaction of the Director of Sustainable Planning and Community Development.
 - b. to secure the following transportation demand management measures, to the satisfaction of the Director of Engineering and Public Works:
 - i. one care share membership per dwelling unit;
 - ii. one hundred dollars in car share usage credits per membership;
 - iii. 20 long term bicycle parking stalls in addition to the requirements under Schedule C of the Zoning Regulation Bylaw;
 - iv. a bicycle maintenance area; and
 - v. a BC Transit bus pass subsidy of at least \$22,500 for future residents.

Development Permit with Variances Application No. 00140

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00711, if it is approved, consider the following motion:

That Council authorize the issuance of Development Permit with Variance Application No. 00140 for 1114 Rockland Avenue, in accordance with:

1. Plans date stamped June 29, 2020.
2. Revisions to the plans to shift the location of the sidewalk to the property line and adjust the landscaping along the street frontage to the satisfaction of the Director of Sustainable Planning and Community Development.
3. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:
 - i. reduce the vehicle parking from 17 stalls to 12 stalls;
 - ii. reduce the west side setback from 3 metres to 2 metres;
 - iii. reduce the east side setback from 3 metres to 0.35 metres (lobby only)
4. The Development Permit lapsing two years from the date of this resolution.

FOR (7): Mayor Helps, Councillor Alto, Councillor Dubow, Councillor Isitt, Councillor Loveday, Councillor Potts, and Councillor Thornton-Joe

OPPOSED (1): Councillor Young

CARRIED (7 to 1)

Committee recessed at 10:48 a.m. and returned at 10:56 a.m.

E.1.a.c

1114 Rockland Avenue: Rezoning Application No. 00711 and Development Permit with Variances Application No. 00140 (Fairfield)**Rezoning Application No. 00711****Motion:**

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00711 for 1114 Rockland Avenue, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Secure an amenity contribution in the amount of \$144,021.20 towards the Victoria Housing Reserve Fund (70%) and Local Amenities Fund (30%), to the satisfaction of the Director of Sustainable Planning and Community Development.
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Development Permit with Variances Application No. 00140

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 - iii. reduce the east side setback from 3 metres to 0.35 metres (lobby only)
4. The Development Permit lapsing two years from the date of this resolution.

Carried

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Farris LLP

Barristers and Solicitors

3rd Floor-1005 Langley Street

Victoria

BC V8W 1V7

Telephone: (250) 382-1100

File: 43510-0008

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

005-212-332 LOT 1576, VICTORIA CITY

STC? YES ☐

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION

SEE SCHEDULE

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.

(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

RTR PROPERTIES LTD., INC. NO. BC0707996

6. TRANSFeree(S): (including postal address(es) and postal code(s))

CAPITAL REGIONAL DISTRICT

625 FISGARD STREET

VICTORIA

V8W 1R7

BRITISH COLUMBIA

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

n/a

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

See Affidavit of Execution

Execution Date

Y	M	D
21	03	02

Transferor(s) Signature(s)

RTR Properties Ltd.
by its authorized signatory(ies):

Print name:

ROBERT KOOPMANS

Print name:

As to all signatures

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

PAGE 2 of 22 PAGES

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y M D

21

CAPITAL REGIONAL DISTRICT
by its authorized signatory(ies):

Print name:

Print name:

as to all signatures

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM E****SCHEDULE**

PAGE 3 OF 22 PAGES

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Covenant

Section 219 Covenant
Page 8, paragraph 2.1

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Rent Charge

Page 12, paragraph 2.4

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Option to Purchase

Page 14, paragraph 3.1

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT AND HOUSING AGREEMENT WHEREAS:

- A. RTR Properties Ltd. (the “**Developer**”) is the registered owner of the Lands described in Item 2 of Part 1 of this General Instrument and the Developer intends to complete a multi unit residential development on the Lands (the “**Strata Development**”) and shall designate two (2) Affordable Units comprising two (2) one-bedroom units of the strata lots to be created by the strata plan for the Strata Development as the Affordable Units to which strata lots this Agreement will apply.
- B. The Developer intends to build the Affordable Unit to ensure the availability of affordable housing in Victoria British Columbia.
- C. To ensure that the Affordable Unit continues to be available as affordable housing, the Developer has agreed to grant the Capital Regional District (“**CRD**”):
 - (a) a covenant under Section 219 of the *Land Title Act* (the “**Covenant**”) and a housing agreement under Section 483 of the Local Government Act setting out, amongst other things, the procedure to be followed in connection with any sale of an Affordable Unit as well as restrictions on the sale price on use and rental of the Affordable Unit;
 - (b) an option to purchase an Affordable Unit if it is sold, rented or used in breach of the Covenant; and
 - (c) Notice of Housing Agreement:

For clarity, the Owner acknowledges and agrees that:

- (i) this Agreement constitutes both a covenant under Section 219 of the *Land Title Act* and a housing agreement entered into under Section 483 of the *Local Government Act*;
- (ii) the CRD is required to file a notice of housing agreement in the Land Title Office against title to the Land; and
- (iii) once such notice is filed, this Agreement binds all persons who acquire an interest in the Land as a housing agreement under Section 483 of the *Local Government Act*.

NOW THEREFORE in consideration of the mutual covenants set out below and other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each of the parties), the parties agree as follows:

SECTION 1. INTERPRETATION

1.1 Definitions. In this Agreement:

- 1.1.1 “Affordable Unit” or “Affordable Units” shall mean the two (2) one-bedroom strata lots to be designated by the Developer within the Strata Development as the strata lots to which this Agreement shall apply;
- 1.1.2 “Affordable Rate” means a rate determined from time-to-time by the NPO in its sole discretion with reference to BC Government guidelines, if any;
- 1.1.3 “Agreement” means Parts 1 and 2 of this General Instrument;
- 1.1.4 “Appraisal” has the meaning stated in Section 2.2;
- 1.1.5 “Appraisal Review Period” has the meaning stated in Section 2.2.4.1;
- 1.1.6 “Appraiser” means an appraiser accredited by the Appraisal Institute of Canada and duly qualified to appraise an Affordable Unit and on an approved list maintained by the NPO, if any;
- 1.1.7 “Approved Lender” means an “approved lender” (as defined in the *National Housing Act*, R.S.C. 1985, c. N-11) which holds an Insured Mortgage of an Affordable Unit;
- 1.1.8 “Below Market Value” means 90% of the Fair Market Value of the Affordable Unit from time to time;
- 1.1.9 “Business Day” means any day other than Saturday, Sunday or a statutory holiday in the Province of British Columbia;
- 1.1.10 “Closing Date” means the 30th day after the Notice Date, or the first Business Day thereafter that the LTO is open for business to the public;
- 1.1.11 “CMHC” means Canada Mortgage and Housing Corporation or any successor thereto;
- 1.1.12 “Covenant” has the meaning stated in Recital C and is the covenant set out in Section 2.1;
- 1.1.13 “CRD” has the meaning stated in Recital C;
- 1.1.14 “Developer” has the meaning stated in Recital A;
- 1.1.15 “Environmental Law” means any applicable federal, provincial or municipal laws pertaining to the presence, handling, release or removal of Hazardous Substances;
- 1.1.16 “Fair Market Value” of an Affordable Unit means the purchase price from time to time which a willing purchaser would pay to a willing vendor, dealing at arm’s length from

each other, for an Affordable Unit, unencumbered with the exception of Permitted Encumbrances and without the benefit of a parking stall or other parking entitlement;

- 1.1.17 “General Instrument - Part 1” means the General Instrument - Part 1 to which this Terms of Instrument - Part 2 is attached;
- 1.1.18 “Hazardous Substances” collectively means contaminants, pollutants or other substances which are hazardous or dangerous to the health of humans, animals or plants or to the environment and includes substances defined as hazardous substances or special waste under any law, regulation or order of a Statutory Authority;
- 1.1.19 “Immediate Family” means grandparent, parent, sibling, spouse, common-law partner, son or daughter;
- 1.1.20 “Insured Mortgage” means a mortgage insured pursuant to the *National Housing Act*, R.S.C. 1985, c. N-11;
- 1.1.21 “LTO” means the Land Title Office for the jurisdiction in which an Affordable Unit is located;
- 1.1.22 “Notice” means any written notice which CRD may deliver to the Owner under Section 3.3, exercising the Option;
- 1.1.23 “Notice Date” means the day on which the Owner is deemed by Section 6.2 to have received the Notice;
- 1.1.24 “NPO” means the Capital Region Housing Corporation or other non-profit housing organization or Person retained by CRD from time to time to administer the sale of the Affordable Units and to manage the rental of the Affordable Units;
- 1.1.25 “NPO Appraisal” has the meaning stated in Section 2.2.4.1;
- 1.1.26 “Offer” has the meaning stated in Section 2.2;
- 1.1.27 “Option” means the option to purchase granted by the Developer and the Owner to CRD under Section 3.1;
- 1.1.28 “Option Purchase Price” means:
- (1) 90% of the Below Market Value; or
 - (2) if the Owner has granted a bona fide arm’s length mortgage or mortgages of the Affordable Unit to an Approved Lender which, as at the Closing Date, secures in aggregate an amount which exceeds 95% of the Below Market Value, the amount owing under and required to discharge the mortgage or mortgages to the Approved Lender as at the Closing Date;
- 1.1.29 “Owner” means the registered owner of an Affordable Unit from time to time and includes the Developer in its capacity as developer of the Affordable Units until the first

conveyance to a Qualified Buyer, and their respective heirs, legal representatives, successors and assigns;

1.1.30 “Permitted Encumbrances” means those charges or encumbrances stated in Schedule “A” and any other encumbrances approved as required by the City of Victoria or Developer from time to time to complete the Strata Development or as in writing by CRD but shall not include any mortgage or other financial encumbrance and shall not include this Agreement;

1.1.31 “Person” means any individual, society, corporation, partnership, trustee, administrator, legal representative, Statutory Authority or other legal entity;

1.1.32 “Personal Property” means all lighting fixtures, appliances, equipment, cabinetry, affixed carpeting, drapes and blinds located within an Affordable Unit (except to the extent otherwise agreed in writing by CRD) but does not include an Owner’s personal effects;

1.1.33 “Proceeding” has the meaning stated in Section 2.3.1;

1.1.34 “Project” means the Strata Development of which the Affordable Units will be a part and comprises all of the Lands referred to in Item 2 of the General Instrument – Part 1;

1.1.35 “Property” means the Affordable Unit and all Personal Property within the Affordable Unit;

1.1.36 “Qualified Buyer” means an individual who meets the criteria stated in Schedule “B”;

1.1.37 “Statutory Authority” means any federal, provincial or municipal governmental authority which has jurisdiction over any matter referred to in this Agreement;

1.1.38 “Term” means the period commencing on the date of registration of this Agreement in the LTO and ending on the earlier of (a) the date which is ninety- nine (99) years thereafter, and (b) the date of any destruction or statutorily deemed destruction of the Project;

1.1.39 “Transaction” means the transfer of an Affordable Unit from the Owner to CRD;

1.1.40 “Transfer” means an instrument in a statutorily prescribed form by which the Owner transfers title to the Affordable Unit to CRD.

1.2 **Time.** Time will be of the essence of this Agreement. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party. If a time is specified in this Agreement for observing or performing any obligation, such time will be local time in Victoria, British Columbia.

1.3 **Governing Law.** This Agreement will be governed by and construed and enforced in accordance with the laws of British Columbia and the laws of Canada applicable in British Columbia.

- 1.4 **References.** In this Agreement, words importing the singular include the plural and vice versa, and words importing gender include all genders.
- 1.5 **Construction.** The division of this Agreement into sections and the use of headings are for convenience of reference only and are not intended to govern, limit or aid in the interpretation of this Agreement. The wording of this Agreement will be construed simply, according to its fair meaning, and not strictly for or against any party.
- 1.6 **Validity of Provisions.** If a Court of competent jurisdiction finds that any provision contained in this Agreement is invalid, illegal or unenforceable, such invalidity, illegality or unenforceability will not affect any other provision of this Agreement which will be construed as if such invalid, illegal or unenforceable provision had never existed and such other provisions will be enforceable to the fullest extent permitted at law.
- 1.7 **No Waiver.** Failure by either party to exercise any of its rights, powers or remedies hereunder or its delay to do so, will not be interpreted as a waiver of those rights, powers or remedies except in the case of a written waiver. No waiver of a particular right will be deemed to be a waiver of that right in any other instance or a waiver of any other right.
- 1.8 **Statutes.** Any reference to a statute and to any regulations under that statute means the statute and regulations as amended or replaced from time to time.
- 1.9 **Remedies.** Any party to this Agreement, in addition to its rights under this Agreement or at law, will be entitled to all equitable remedies including specific performance, injunction and/or declaratory relief, to enforce its rights under this Agreement. No reference to or exercise of any specific right or remedy under this Agreement or at law or in equity by any party will prejudice or preclude that party from exercising any other such right or remedy. No such right or remedy will be exclusive or dependent upon any other such right or remedy, but any party, from time to time, may exercise any one or more of such rights or remedies independently, successively or in combination. The Owner acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Owner under this Agreement.
- 1.10 **Schedules.** The following Schedules are attached to and form integral parts of this Agreement:

Schedule "A" Permitted Encumbrances
Schedule "B" Qualified Buyer Criteria

SECTION 2. SECTION 219 COVENANT

- 2.1 **Covenant.** The Owner hereby covenants with CRD that:
- (a) the Affordable Unit will not be sold, assigned or otherwise transferred otherwise than:
 - (i) to a Qualified Buyer;
 - (ii) for a selling price not greater than the Below Market Value;

- (iii) subject to the Covenant and the Option; and
- (iv) in a way which complies with Section 2.2, or to CRD under Section 3;
- (b) the Affordable Unit will not at any time be subject to a conventional high ratio mortgage or mortgages which, in total, secure an amount which exceeds 95% of the Below Market Value; and
- (c) the Owner shall not permit (whether by renting or otherwise) any person other than the Owner and members of the owner's Immediate Family to occupy the Affordable Unit, and shall not use or permit the premises to be used solely for conducting a business or profession,

and the Owner and CRD agree that, subject to Section 2.3 the covenant set out above will be registered as a charge against the Affordable Unit and run with the Affordable Unit for the Term.

2.2 **Procedure for Sale of Affordable Unit.**

2.2.1 **Owner Notifies NPO of Intention to Sell.**

If at any time after the first conveyance of an Affordable Unit by the Developer, the Owner wishes to sell, assign or otherwise transfer the Affordable Unit, the Owner will do so in accordance with a bona fide arm's length agreement of purchase and sale (or as a court may order in a proceeding to enforce a mortgage of the Affordable Unit) and the Owner will, prior to:

- (a) listing or offering the Affordable Unit for sale; or
- (b) accepting an offer to purchase the Affordable Unit,

deliver to the NPO written notice of their intention to sell an Affordable Unit, such notice to be in the form required by the NPO.

2.2.2 **Owner Retains Appraiser.**

Within 7 days after the Owner notifies the NPO of their intention to sell an Affordable Unit, the Owner will select an Appraiser to be retained by the Owner to undertake an appraisal (the "Owner Appraisal") of the Fair Market Value of the Affordable Unit. The Owner will deliver a copy of the Owner Appraisal to the NPO within 7 days after the Owner receives the Owner Appraisal.

2.2.3 **Owner and NPO Agree on Maximum Selling Price.**

If the Owner and the NPO agree within 7 days after the Owner Appraisal is delivered to the NPO that the Fair Market Value of the Affordable Unit is as stated in the Owner Appraisal, the Fair Market Value stated in the Owner Appraisal, less 10%, will be the

maximum price at which the Owner will be permitted to sell the Affordable Unit during a period of 6 months commencing on the effective date of the Owner Appraisal.

2.2.4 Owner and NPO Do Not Agree on Maximum Selling Price.

2.2.4.1 If the Owner and the NPO do not agree within 7 days (the “Appraisal Review Period”) after the Owner Appraisal is delivered to the NPO that the Fair Market Value of the Affordable Unit is as stated in the Owner Appraisal, the NPO will retain its own Appraiser to undertake an appraisal (the “NPO Appraisal”) of the Fair Market Value of the Affordable Unit in which case the average of the Fair Market Value stated in the Owner Appraisal and the NPO Appraisal, less 10%, will be the maximum price at which the Owner will be permitted to sell the Affordable Unit during a period of 6 months commencing on the effective date of the NPO Appraisal.

2.2.4.2 The NPO will deliver a copy of the NPO Appraisal to the Owner within 7 days after the NPO receives the NPO Appraisal.

2.2.4.3 If the NPO Appraisal is not delivered to the Owner within 30 days after the end of the Appraisal Review Period, the Fair Market Value stated in the Owner Appraisal, less 10%, will be the maximum price at which the Owner will be permitted to sell the Affordable Unit during a period of 6 months commencing on the effective date of the Owner Appraisal.

2.2.5 Owner Responsible for Appraisal Costs.

The Owner will be responsible for the cost of both the Owner Appraisal and the NPO Appraisal. If the cost of the NPO Appraisal is initially paid by the NPO, the Owner will reimburse the NPO for the cost of the NPO Appraisal within 30 days after demand by the NPO. If any amount owed by the Owner to the NPO with respect to the NPO Appraisal is not paid prior to the completion of the sale of the Affordable Unit by the Owner, a portion of the sale proceeds equal to the amount owing to the NPO will be deemed to have been irrevocably assigned by the Owner to the NPO.

2.2.6 NPO Notifies Owner of Maximum Selling Price.

Within 7 days after the Fair Market Value of the Affordable Unit has been determined under Section 2.2.3 or 2.2.4, the NPO will notify the Owner of the maximum price, determined under Section 2.2.3 or 2.2.4, at which time the Owner will be permitted to offer to sell the Affordable Unit, which price shall be deemed to be its Below Market Value.

2.2.7 Owner to Deliver True Copy of Sale Contract to NPO.

The Owner will immediately deliver a true copy of any contract of purchase and sale which the Owner may enter into with respect to the sale of the Affordable Unit or any interest therein (the “Sale Contract”). The Owner will deliver to the NPO with the Sale Contract, or upon the request of the NPO, such information with respect to the buyer

named in the Sale Contract as the NPO may reasonably require to determine whether the buyer is a Qualified Buyer.

2.2.8 Terms to be Included in Sale Contract.

The Sale Contract will be in writing and will:

- (a) be for a selling price not greater than the Below Market Value of the Affordable Unit;
- (b) be subject to the NPO determining and notifying the Owner in writing (within a period of 10 Business Days after the NPO receives a true copy of the Sale Contract) that (1) the Owner has complied with the requirements of this Section 2.2, and (2) the buyer is a Qualified Buyer, failing which the Sale Contract will be null and void; and
- (c) include a statement that the buyer agrees to purchase the Affordable Unit subject to the Covenant, the Option and all other terms of this Agreement.

2.2.9 No Sale after 6 Months Without New Appraisal.

The NPO will not be obligated to review or make any determination with respect to a Sale Contract as stated in subsection 2.2.8(b) above if the date of receipt by the NPO of a true copy of the Sale Contract and any other information required by the NPO under Section 2.2.7 is after the expiry of the 6 month period during which the Owner is permitted to sell the Affordable Unit. If the 6 month period has expired, the process under Section 2.2 will begin again, with the Owner giving fresh notice to the NPO of their intention to sell the Affordable Unit.

2.2.10 CRD Will Notify Owner of Change in NPO.

CRD will notify the Owner in writing of any appointment or replacement of an NPO and of the address to which notices to the NPO will be sent.

2.2.11 Fee to NPO

The NPO will be entitled to payment of a fee equal to 0.5% of the gross selling price of an Affordable Unit, such fee to be paid on closing of the sale of such Affordable Unit by the Owner and a portion of the sale proceeds equal to the amount owing to the NPO will be deemed to have been irrevocably assigned by the Owner to the NPO.

2.3 Procedure for Foreclosure.

2.3.1 CRD Right to Market and Sell.

If the Approved Lender or CMHC commences a foreclosure proceeding (the "Proceeding") under an Insured Mortgage of the Affordable Unit the Owner covenants and agrees with CRD that:

- (a) the Owner shall notify CRD of the Proceeding;
- (b) at the time which is the midpoint of any redemption period (the "Redemption Period") ordered in the Proceeding, CRD shall have the right and may apply for an order in the Proceeding, unopposed by the Owner, to market and sell the Affordable Unit in accordance with Section 2.1(a)(i), (ii), (iii) and (iv);
- (c) on receipt of the order in the Proceeding under Section 2.3.1(b) CRD shall have the right to enter into an agreement with a licensed realtor to market and sell the Affordable Unit at the prevailing commission or fee; and
- (d) the Owner shall provide reasonable access to the Affordable Unit by CRD, the licensed realtor and any prospective purchaser of the Affordable Unit for the purpose of repairing, cleaning, appraising, marketing and selling the Affordable Unit.

2.3.2 CMHC Notice to CRD.

In the event that CRD does not sell the Affordable Unit pursuant to Section 2.3.1, CMHC or the Approved Lender may, 120 days after expiry of the Redemption Period ordered in the Proceeding, issue a 30 day notice (the "Notice Period") to CRD to redeem the Insured Mortgage. In the event that CRD does not redeem the Insured Mortgage within the Notice Period, CRD shall cause this Agreement to be discharged from title to the Affordable Unit at the LTO within 7 days of expiry of the Notice Period.

2.3.3 CMHC Sale.

In the event that the Affordable Unit is sold by the Approved Lender or CMHC after discharge of this Agreement from title to the Affordable Unit and such sale generates funds in excess of the balance owing under the Insured Mortgage and related costs, including charges, taxes, commissions and utilities regarding the Affordable Unit, such excess funds shall forthwith be paid to CRD, for its own use absolutely. This Section 2.3.3 shall bind the Owner, the Approved Lender, CMHC (where CMHC has a mortgage loan insurance policy in force for the Affordable Unit) and CRD both before and after discharge of this Agreement from title to the Affordable Unit.

2.4 Procedure for Rental and Recovery of Rent Charges.

2.4.1 Rental Prohibited.

2.4.1.1 All rentals of the Affordable Units are prohibited except:

- (a) In the case of hardship, as decided by the NPO in its sole discretion, and on making an application to the NPO in the form provided by the NPO, if any, an Affordable Unit may be rented at an Affordable Rate for a period no shorter than six months; or
- (b) If a qualified buyer cannot be located, as decided by the NPO in its sole discretion, and on making an application to the NPO in the form

provided by the NPO, if any, an Affordable Unit may be rented at an Affordable Rate for a period no shorter than six months.

2.4.1.2 The maximum term of any rental shall be two years, at which point the Affordable Unit must be listed for sale in accordance with section 2.2. Rental may continue at an Affordable Rate at the discretion of the NPO. If hardship continues or a qualified buyer cannot be located after this listing, additional sales listings may be required at any time at intervals decided by the NPO at its discretion.

2.4.1.3 Any tenancy shall be governed by an agreement under the *Residential Tenancy Act* (BC) which shall include the following provisions:

- (a) permitting the Owner to terminate the tenancy agreement in accordance with the *Residential Tenancy Act* if the tenant uses or occupies, or allows use or occupation of, the Affordable Unit in breach of the use or occupancy restrictions contained in this Agreement;
- (b) explicitly prohibiting the assignability, sub-letting, and use of the Affordable Unit for short term vacation rentals;
- (c) explicitly specifying that only persons named in the tenancy agreement may occupy the Affordable Unit;
- (d) providing that the Owner will have the right, at its option, to terminate the tenancy agreement should the tenant remain absent from the Affordable Unit for three consecutive months or longer, notwithstanding the timely payment of rent;
- (e) prohibiting guests residing in the Affordable Unit for more than 30 days, whether or not consecutive, in any 12 month period without the prior written consent of the Owner; and
- (f) prohibiting use of the Affordable Unit for non-residential rentals, assignments, sub- lets, licenses and uses, such as vacation rentals, including such services as AirBNB or Vacation Rental By Owner, short term licenses, or short-stay use of any kind, and business-only premises.

2.4.1.4 The Owner will terminate the tenancy if the tenant uses or occupies, or allows use or occupancy in breach of the use and occupancy restrictions in this Agreement.

2.4.2 Rent Charge and Acknowledgement.

2.4.2.1 The Owner acknowledges that the CRD requires affordable housing to ensure prosperity and economic growth for the residents of the Capital Region. The Owner acknowledges the purpose of the Affordable Unit is to provide affordable housing to residents of the Capital Region, and it is not to be used for a short

term vacation rental or left as a vacant home. The Owner therefore agrees that for each day an Affordable Unit is occupied in breach of this Agreement, the Owner will pay to the CRD \$150 for each day on which the breach has occurred and continues to occur, as liquidated damages and not as a penalty, due and payable at the offices of the CRD on the last day of the calendar month in which the breach occurred. The \$150 per day amount will increase on January 1 of each year by the amount calculated by multiplying the amount per day payable on the previous January 1 by the percentage increase between that previous January 1 and the immediately preceding December 31 in the CPI.

2.4.2.2 The Owner hereby grants to the CRD a rent charge under s. 219 of the *Land Title Act* (British Columbia), and at common law, securing payment by the Owner to the CRD of the amount payable by the Owner pursuant to section 2.4.2 of this Agreement. The Owner agrees that the CRD, at its option, may enforce payment of such outstanding amount in a court of competent jurisdiction as a contract debt, by an action for and order for sale, by proceedings for the appointment of a receiver, or in any other method available to the CRD in law or in equity.

SECTION 3. OPTION TO PURCHASE

- 3.1 **Option to Purchase.** The Owner hereby grants CRD an exclusive and irrevocable option to purchase the Affordable Unit during the Term at the Option Purchase Price in accordance with Sections 3 and 4.
- 3.2 **Exercise of Option.** CRD may exercise the Option only if the Owner:
- (a) defaults in its obligations under Sections 2.1 or 2.2; or
 - (b) acquired the Affordable Unit from a previous Owner for a price which was, as of the date of closing of that transaction, greater than the Below Market Value or if the Owner was not, as of that date, a Qualified Buyer; or
 - (c) defaults in its obligations under any mortgage of the Affordable Unit.
- 3.3 **Method of Exercise of Option.** CRD may exercise the Option by delivering Notice of exercise of the Option to the Owner.
- 3.4 **Effect of Exercise of Option.** From and after the Notice Date, this Agreement and the Notice will together constitute a binding and enforceable contract between the Owner and CRD for the purchase and sale of the Affordable Unit in accordance with the terms and conditions of Section 4.

SECTION 4. PURCHASE AND SALE

- 4.1 **Purchase and Sale.** Subject to the terms and conditions of this Section 4 and relying on the warranties and representations herein set out, the Owner agrees to sell and CRD agrees to

purchase the Affordable Unit on the Closing Date for the Option Purchase Price, and the Owner agrees that, at the request of CRD, it will transfer registered title to the Affordable Unit to CRD or such other Person as CRD may designate.

- 4.2 **Option Purchase Price.** CRD will pay the Option Purchase Price, subject to adjustment pursuant to Section 4.10, to the Owner on the Closing Date.
- 4.3 **Repair and Maintenance.** From and after the Notice Date to the Closing Date, the Owner will take good care of the Property, will carry out all necessary repairs, maintenance, and replacements, will take reasonable care to protect and safeguard the Property and will in all other respects deal with the Property so that the warranties and representations of the Owner set out in this Agreement remain true and correct.
- 4.4 **Insurance.** From and after the Notice Date to the Closing Date, the Owner will ensure that all policies of insurance with respect to the Property remain in full force and effect.
- 4.5 **Risk.** The Property will be at the risk of the Owner up to the time the Transfer is submitted for registration at the LTO on the Closing Date and will be at the risk of CRD after the time the Transfer is submitted for registration at the LTO on the Closing Date.
- 4.6 **Damage.** If, prior to the time the Transfer is submitted for registration at the LTO, any damage occurs to the Property or any of the assets comprising the Property, CRD, by notice to the Owner, may elect to postpone the Closing Date for a period of not more than 30 days and may also elect:
 - (a) not to acquire the Affordable Unit, in which case neither party will have any further obligation to the other under this Section 4 pertaining to that particular Notice; or
 - (b) that the Owner assign to CRD the Owner's right to receive any and all insurance proceeds payable with respect to the damage, subject to any bona fide loss payee designation, in which case the Owner will execute and deliver to CRD an assignment satisfactory to CRD.
- 4.7 **Construction Warranties.** From and after the Closing Date, the Owner will assign to CRD all the Owner's rights under all warranties, guarantees or contractual obligations against any contractor or supplier who was engaged in the construction, renovation, or repair of all or any part of the Affordable Unit or any improvement to the Affordable Unit. CRD's acceptance of this assignment will not represent a waiver by CRD of the Owner's covenants, agreements, representations and warranties set out in this Agreement.
- 4.8 **Owner's Covenants.** The Owner will:
 - (a) take all proper actions and proceedings on its part to enable the Owner to transfer a good and marketable title to the Affordable Unit to CRD or such Person as CRD may designate, free and clear of all encumbrances other than Permitted Encumbrances;
 - (b) deliver vacant possession of the Property to CRD or such Person as CRD may designate on the Closing Date, subject to prior receipt of the Option Purchase Price by the Owner;

- (c) not, from and after the Notice Date to the Closing Date, sell, transfer, dispose of or remove from the Affordable Unit any Personal Property; and
- (d) both before and after the Closing Date do such other things as CRD may reasonably require for transferring to and vesting in CRD or such Person as CRD may designate title to the Affordable Unit as contemplated by this Section 4.

- 4.9 **Documents.** CRD will prepare the documents necessary to complete the Transaction which will be in a form and substance reasonably satisfactory to CRD and its lawyers.
- 4.10 **Adjustments and Credits.** The Owner and CRD will adjust, as at the Closing Date, all usual adjustments for a property similar to the Property including taxes, utility rates and any moneys owing to the strata corporation formed in respect of the Project.
- 4.11 **Closing.** The Owner and CRD will complete the Transaction on the Closing Date at the offices of CRD or its lawyers.
- 4.12 **Owner's Closing Documents.** At the closing, the Owner will deliver to CRD the following duly executed documents:
- (a) the Transfer;
 - (b) a vendor's statement of adjustments;
 - (c) a bill of sale for the Personal Property and all other deeds, transfers, assignments, resolutions, consents, estoppels and other certificates and assurances as CRD may reasonably require;
 - (d) a certificate in confirmation that the sale of the Affordable Unit to CRD is exempt from taxes under the *Excise Tax Act* (the "GST") or, alternately, a certified cheque or bank draft payable to CRD in an amount equal to the GST payable by CRD on the Option Purchase Price; and
 - (e) unless waived in writing by CRD, a certified cheque or bank draft payable to CRD in the amount, if any, by which the moneys owing under and required to discharge any mortgage or mortgages of the Affordable Unit exceed the Option Purchase Price (calculated in accordance with Section 1.1.28(2)), as adjusted under Section 4.10.
- 4.13 **CRD's Closing Documents.** At the closing, CRD will deliver to the Owner:
- (a) a purchaser's statement of adjustments; and
 - (b) a cheque for the Option Purchase Price, as adjusted under Section 4.10.
- 4.14 **Tabling.** Except for the Transfer, all documents and cheques will be tabled at the closing. CRD will cause its lawyers, on the Closing Date, to conduct a pre-registration index search of the Affordable Unit at the LTO. If that search indicates that no liens, charges or encumbrances have been registered or filed in respect of the Affordable Unit except for Permitted

Encumbrances and encumbrances which the lawyers for the Owner have undertaken to discharge, the lawyers for CRD or their agents shall submit the Transfer for registration and then conduct a post-filing registration index search. If that search indicates that no liens, charges or encumbrances have been registered or filed in respect of the Affordable Unit since the pre-filing registration index search, all documents and payments will be released to each of the Owner and CRD according to the entitlement of each of them.

- 4.15 **Reimbursement.** If CRD waives payment on the Closing Date of the amount referred to in Section 4.12(e), the Owner shall pay such amount to CRD, on demand, with interest thereon at the rate of eighteen percent (18%) per annum, compounded monthly, from the Closing Date to the date of payment.
- 4.16 **Survival.** All the representations, warranties, covenants and agreements of the Owner and CRD contained in this Agreement will survive the Closing Date, registration of documents, and the payment of the Option Purchase Price.

SECTION 5. RELEASE

- 5.1 **Release.** The Owner releases CRD and its officers, directors, employees and agents and their respective heirs, executors, administrators, personal representatives, successors and assigns absolutely and forever, from any claims the Owner may have against all or any of them for costs, expenses or damages the Owner may suffer, incur or be put to arising out of or in connection with this Agreement and from all claims arising out of advice or direction respecting the sale of the Affordable Unit or use of the Property given to the Owner by any of them or by the NPO.

SECTION 6. GENERAL PROVISIONS

- 6.1 **Discharge of Covenant and Option to Purchase on Strata Lots not designated as Affordable Units.** The parties agree that this Agreement is intended to only apply to the two (2) strata lots to be designated by the Developer as the Affordable Units upon the filing of the strata plan for the Strata Development and concurrently with filing of the strata plan for the Strata Development this Covenant, the Rent Charge and the Option to Purchase shall be discharged from title to all of the strata lots and the common property except for the two (2) Affordable Units designated by the Developer, and this Agreement will only charge the Affordable Units. The parties will execute all such documents as may be required to complete the foregoing discharges.
- 6.2 **Notices.** Unless otherwise specified, each notice to the Owner must be given in writing and delivered personally or by courier to the Owner at its address shown on title to the Affordable Unit as registered in the LTO from time to time. Unless otherwise specified, each notice to CRD must be given in writing and delivered personally or by courier to CRD, Attention: Manager Real Estate Services, at the address shown on the General Instrument - Part 1 or to such other address or addresses or person or persons as CRD may designate. Notices will be deemed to have been received when delivered.

- 6.3 **Fees.** Each of the Owner and CRD will pay its own legal fees. CRD will pay all fees in connection with registration of the Transfer.
- 6.4 **Enuring Effect.** This Agreement will enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and permitted assigns as the case may be of the Owner and CRD, provided that the Owner shall not be liable for any breach of the covenant contained in Section 2.1 except as such liability relates to the period of ownership of an Affordable Unit by the Owner. If, by operation of statute or otherwise, the Option becomes or will within a period of three months become void or unenforceable as the result of the passage of time, the Owner or their heir, legal representative, successor or permitted assign, as the case may be, will, at the request of CRD, execute and deliver to CRD a replacement agreement substantially in the form of this Agreement.
- 6.5 **Registration.** This Agreement will be registered against title to the Lands initially and then shall be restricted to the titles to the Affordable Units upon filing of a strata plan of the Lands in the LTO subject only to Permitted Encumbrances.
- 6.6 **Discharge.** On expiry of the Term, the Owner may require that CRD execute and deliver to the Owner a release in registrable form of the Covenant and the Option.
- 6.7 **Amendment.** This Agreement may only be amended by written agreement of the parties.
- 6.8 **Counterparts.** This Agreement and any amendment, supplement, restatement or termination of any provision of this Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered is an original, but all of which taken together constitute one and the same instrument.

IN WITNESS WHEREOF the parties have duly executed this Agreement by signing the General Instrument - Part 1.

CONSENT AND PRIORITY AGREEMENT

N/A

SCHEDULE "A"
PERMITTED ENCUMBRANCES

Legal Notations:

CA1719880 Notice of Interest Builders Lien Act

Charges, Liens and Interests:

M76301 Undersurface Rights

SCHEDULE "B"
QUALIFIED BUYER CRITERIA

1. Sale of an Affordable Unit by the Developer:

In the case of the sale of an Affordable Unit by the Developer, a Qualified Buyer means:

- (a) a first time home buyer, being a buyer who has not owned a principal residence for at least 5 years immediately prior to the date of purchase of an Affordable Unit;
- (b) a resident of the Capital Regional District from time to time, for at least one year immediately prior to the date of purchase of an Affordable Unit;
- (c) A person who provides Proof of Income that annual gross Income is between the range set from time-to-time by the NPO in its sole discretion (which shall not be appealed) for at least one year immediately prior to the date of purchase of an Affordable Unit; and
- (d) a person who intends to immediately use and occupy the Affordable Unit as their principal residence and not rent or lease the Affordable Unit to any other person, nor leave the unit vacant, use it solely for a business or profession, or use it as a short-term vacation rental property of any kind

it being understood and agreed that preferential consideration may be given to a person who meets all of the above criteria and all or some of the following criteria:

- (a) a person who does not own a vehicle; and
- (b) a person who satisfies such other criteria as may be applied by the NPO and CRD from time to time.

2. Sale of an Affordable Unit by an Owner other than the Developer:

In the case of the sale of an Affordable Unit by an Owner other than the Developer, a Qualified Buyer means:

- (a) a first time home buyer, being a buyer who has not owned a principal residence for at least 5 years immediately prior to the date of purchase of an Affordable Unit;
- (b) a resident of the Capital Regional District from time to time, for at least one year immediately prior to the date of purchase of an Affordable Unit;
- (c) a person who provides Proof of Income that annual gross Income is between the range set from time-to-time by the NPO in its sole discretion (which shall not be appealed) for at least one year immediately prior to the date of purchase of an Affordable Unit, it being understood and agreed that the NPO may, from time to time, grant an exemption from or vary such requirement if, in the opinion of the NPO and having regard to

prevailing market conditions, such exemption or variation is consistent with the continued use and availability of the Affordable Unit as affordable housing; and

- (d) a person who intends to immediately use and occupy the Affordable Unit as their principal residence and not rent or lease the Affordable Unit to any other person, nor leave the unit vacant, use it solely for a business or profession, or use it as a short-term vacation rental property of any kind.

For the purpose of Schedule B:

“Income” means the total income before income tax from all sources of all persons intending to live in an Affordable Unit including, without limitation:

- (a) all income from earnings, including commissions and tips;
- (b) all income from all public and private pension plans, old age security and guaranteed income supplement;
- (c) all income received under the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*;
- (d) disabled veteran’s allowance;
- (e) alimony;
- (f) child support;
- (g) workers’ compensation benefits;
- (h) employment insurance; and
- (i) Income from Assets,

but excluding the following:

- (a) child tax benefit;
- (b) capital gains, such as insurance settlement, inheritances, disability awards and sale of effects in the year they are received;
- (c) the earnings of a person aged 18 and under;
- (d) student loans, student loan equalization payments and student grants but excluding non-repayable training allowances, research fellowships or similar grants;
- (e) shelter aid for elderly renters (SAFER) or rental assistance program (RAP) payments received prior to purchasing an Affordable Unit;
- (f) GST rebates;

- (g) taxable benefits received through employment;
- (h) government provided daycare allowance; and
- (i) payments for foster children, or child in home of relative (CIHR) income under the *Employment and Assistance Act*.

"Income from Assets" means computing income from assets of all persons intending to live in an Affordable Unit at a percentage per annum as determined by CRD, excluding the first \$62,051.00 in assets of such persons, based on November 1, 2018 dollars, indexed over time by reference to changes from time to time in the consumer price index (all items, British Columbia) or if such consumer price index is no longer published, such substitute and comparable index as the NPO may designate.

"Proof of Income" means a tax return filed with Canada Revenue Agency or a notice of assessment from Canada Revenue Agency under the *Income Tax Act*.