

**F.1.a.a 320 Cook Street and 1075 Pendergast Street: Temporary Use
Permit Application No. 00020 (Fairfield)**

Moved By Councillor Alto

Seconded By Councillor Young

That subject to registration on property title of a legal agreement securing nine annual transit passes, to the satisfaction of the Director of Sustainable Planning and Community Development, that Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

“That Council authorize the issuance of Temporary use Permit Application No. 00020 for 320 Cook Street and 1075 Pendergast Street, in accordance with:

1. Plans date stamped December 14, 2021.
2. Development meeting all Zoning Regulation Bylaw requirements, except for the following variance:
 - i. reduce the vehicle parking from 33 stalls to three stalls.
3. The Temporary Use Permit lapsing three years from the date of this resolution.”

CARRIED UNANIMOUSLY

E.1 320 Cook Street and 1075 Pendergast Street: Temporary Use Permit Application No. 00020 (Fairfield)

Council received a report from the Director of Sustainable Planning & Community Development dated February 3, 2022, presenting Council with a Temporary Use Permit Application for the property located at 320 Cook Street and 1075 Pendergast Street. The proposal is to allow commercial use of the upper storey of the existing building for a period of three years. The variance is related to reducing the vehicle parking requirements from 33 stalls to three stalls.

Moved By Councillor Thornton-Joe

Seconded By Councillor Isitt

That subject to registration on property title of a legal agreement securing nine annual transit passes, to the satisfaction of the Director of Sustainable Planning and Community Development, that Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

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CARRIED UNANIMOUSLY



Committee of the Whole Report

For the Meeting of February 10, 2022

To: Committee of the Whole **Date:** February 3, 2022

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

Subject: Temporary Use Permit Application No. 00020 for 320 Cook Street and 1075 Pendergast Street

RECOMMENDATION

That subject to registration on property title of a legal agreement securing nine annual transit passes, to the satisfaction of the Director of Sustainable Planning and Community Development, that Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

“That Council authorize the issuance of Temporary use Permit Application No. 00020 for 320 Cook Street and 1075 Pendergast Street, in accordance with:

1. Plans date stamped December 14, 2021.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - i. reduce the vehicle parking from 33 stalls to three stalls.
3. The Temporary Use Permit lapsing three years from the date of this resolution.”

LEGISLATIVE AUTHORITY

In accordance with section 493 of the *Local Government Act*, Council may issue a Temporary Use Permit. A Temporary Use Permit may allow a use not permitted by zoning, may specify conditions under which the temporary use may be carried on, and may allow and regulate construction of buildings and structures in respect of the use of which the permit is issued.

In accordance with Section 498 of the *Local Government Act*, Council may issue a Temporary use Permit with Variance that varies a *Zoning Regulation Bylaw* provided the permit does not vary the use or density of land from that specified in the *Zoning Regulation Bylaw*.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Temporary Use Permit Application for the property located at 320 Cook Street and 1075 Pendergast Street. The proposal is to allow commercial use of the upper storey of the existing

building for a period of three years. The variance is related to reducing the vehicle parking requirements from 33 stalls to three stalls.

The following points were considered in assessing this application:

- The proposed commercial uses, including retail, personal services, general office and professional offices, are generally consistent with the Large Urban Village Urban Place Designation in the *Official Community Plan, 2012* (OCP) and the *Fairfield Neighbourhood Plan*; however, a standalone commercial building is inconsistent with the *Fairfield Neighbourhood Plan* policies for Cook Street Village.
- The OCP designates the entire City for the issuance of Temporary Use Permits for uses that would otherwise not be permitted. Temporary Use Permits are valid for three years with an option to apply to renew for an additional three years, subject to Council approval.
- The subject property previously had legal non-conforming status for commercial use of the upper floor. The commercial use was discontinued for a period longer than six months and therefore the legal non-conforming status is no longer applicable.
- Converting the upper floor to residential use would require substantial changes to the building which would impact the ground-floor commercial uses.
- The property is currently split-zoned with the parking lot on the west side of the property within the R1-B Zone, Single Family Dwelling District and the building on the east side of the property within the CR-3M Zone, Commercial Residential Apartment Modified District.
- Due to the wording of the CR-3M Zone, the *Zoning Regulation Bylaw* does not recognize the existing 16 parking stalls within the R1-B zoned portion of the site as contributing to the parking requirements for the building; however, functionally the property would provide 19 parking stalls and the actual parking shortfall would be 14 stalls rather than 30 stalls.
- The subject site is located in a walkable area, in close proximity to bike lanes and transit service; therefore, the parking variance is considered supportable considering the actual amount of existing and available on-site parking, the applicant's commitment to providing nine transit passes and the provision of long-term and short-term bicycle parking.

BACKGROUND

Description of Proposal

The proposal is for a Temporary Use Permit to allow commercial use of the upper floor of the existing building for a period of three years. The variance associated with the change of use would reduce the vehicle parking requirement from 33 stalls to three stalls.

Sustainability

The applicant has not identified any sustainability features associated with this proposal.

Active Transportation

The application proposes six long-term and eight short-term bicycle parking stalls which supports active transportation.

Public Realm

No public realm improvements beyond City standard requirements are proposed in association with this Temporary Use Permit Application.

Accessibility

No accessibility improvements are proposed beyond what is required through the *British Columbia Building Code*.

Existing Site Development and Development Potential

The site is located in the Cook Street Village and is presently developed as a two-storey commercial building with ground-floor coffee shop, restaurant and medical office uses. The upper storey contains vacant office space. The property is currently split zoned with the parking lot on the west side of the property within the R1-B Zone, Single Family Dwelling District, and the building on the east side of the property within the CR-3M Zone, Commercial Residential Apartment Modified District.



Data Table

The following data table compares the proposal with the existing CR-3M Zone, Commercial Residential Apartment Modified District. An asterisk is used to identify where the proposal does not meet the requirements of the existing zone.

Zoning Criteria	Proposal	CR-3M Zone
Site area (m ²) – minimum	1513.80	-
Density (Floor Space Ratio) – maximum	0.8:1	1:1
Height (m) – maximum	Existing	10.70
Storeys – maximum	2	3
Parking – minimum	3* (within CR-3M zoned portion of the site) 16 (within R1-B zoned portion of the site) 19 (total)	33
Bicycle parking stalls – minimum		
Long-term	6	0
Short-term	8	0

Relevant History

The two-storey building at 320 Cook Street was constructed in 1980 for office commercial uses on both floors. The approved parking layout showed 19 parking stalls: 16 regular stalls and 3 small car stalls, which at the time was the Bylaw-required parking for the proposed office use. Later, when the use of the building changed to other commercial uses, the parking requirements increased and a portion of the required parking was provided off-site on the property located at 324/328 Cook Street and secured by easement and covenant.

When the second floor of 320 Cook Street became vacant for more than six months, the building lost its legal non-conforming status for commercial use of the upper floor. The off-site parking stalls at 324/328 Cook Street were no longer required to fulfil the parking requirements under Schedule C of the *Zoning Regulation Bylaw* and the legal agreements securing the off-site parking were discharged.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, on November 19, 2021 the application was referred for a 30-day comment period to the Fairfield Gonzales CALUC. At the time of writing this report, a letter from the CALUC had not been received.

This application proposes variances, therefore, in accordance with the City's *Land Use Procedures Bylaw*, it requires notice, sign posting and a meeting of Council to consider the variances.

ANALYSIS

Official Community Plan

The *Official Community Plan, 2012* (OCP) identifies this property within the Large Urban Village urban place designation, which envisions standalone commercial uses or mixed-use buildings with ground-floor commercial uses and residential uses above. The proposed two-storey commercial building is consistent with the OCP designation.

The OCP also designates the entire City for the issuance of Temporary Use Permits for uses that would not be permitted on the lands for which they are proposed.

Fairfield Neighbourhood Plan

The subject site is located within the Cook Street Village, which is designated in the *Fairfield Neighbourhood Plan* as a Large Urban Village, consistent with the OCP. The Plan supports mixed-use development consisting of commercial and residential uses. The proposed standalone commercial use of the building is inconsistent with this policy direction. Nevertheless, utilizing existing floor area for retail, personal services or office use helps to support and strengthen village businesses, consistent with the *Fairfield Neighbourhood Plan*. Furthermore, the proposed bicycle parking and transit passes encourage cycling and transit use, consistent with the Plan.

Regulatory Considerations

The property is currently split zoned with the parking lot on the west side of the property within the R1-B Zone, Single Family Dwelling District and the building on the east side of the property within the CR-3M Zone, Commercial Residential Apartment Modified District. Due to the wording of the CR-3M Zone, which requires that all parking be provided on property zoned CR-3M, the *Zoning Regulation Bylaw* does not recognize the existing 16 parking stalls within the R1-B zoned portion of the site as contributing to the parking requirements for the building. However, functionally, the property provides 20 parking stalls, which meets the current requirements for the ground-floor uses. Allowing commercial use of the upper floor increase the parking requirement from 20 stalls to 33 stalls, triggering a parking variance. In addition, one stall would be converted to a long-term bicycle parking enclosure, reducing on-site parking from 20 stalls to 19 stalls.

The subject site is located in a walkable area, in close proximity to bike lanes and transit service; therefore, the parking variance is considered supportable considering the actual amount of on-site parking, the applicant's commitment to providing nine annual transit passes for staff and the provision of long-term and short-term bicycle parking.

CONCLUSIONS

Standalone commercial use of a building would normally not be supportable by staff given the *Fairfield Neighbourhood Plan* policies for Cook Street Village. However, the commercial building already exists and this Temporary Use Permit would allow for a re-activation of the vacant second floor commercial space for up to three years while the owner works on a long-term vision and potential rezoning proposal for the site, and the parking variance is supportable. Therefore, it is recommended that Council consider supporting this application.

ALTERNATE MOTION

That Council decline Temporary Use Permit Application No. 00020 for the property located at 320 Cook Street and 1075 Pendergast Street.

Respectfully submitted,

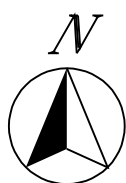
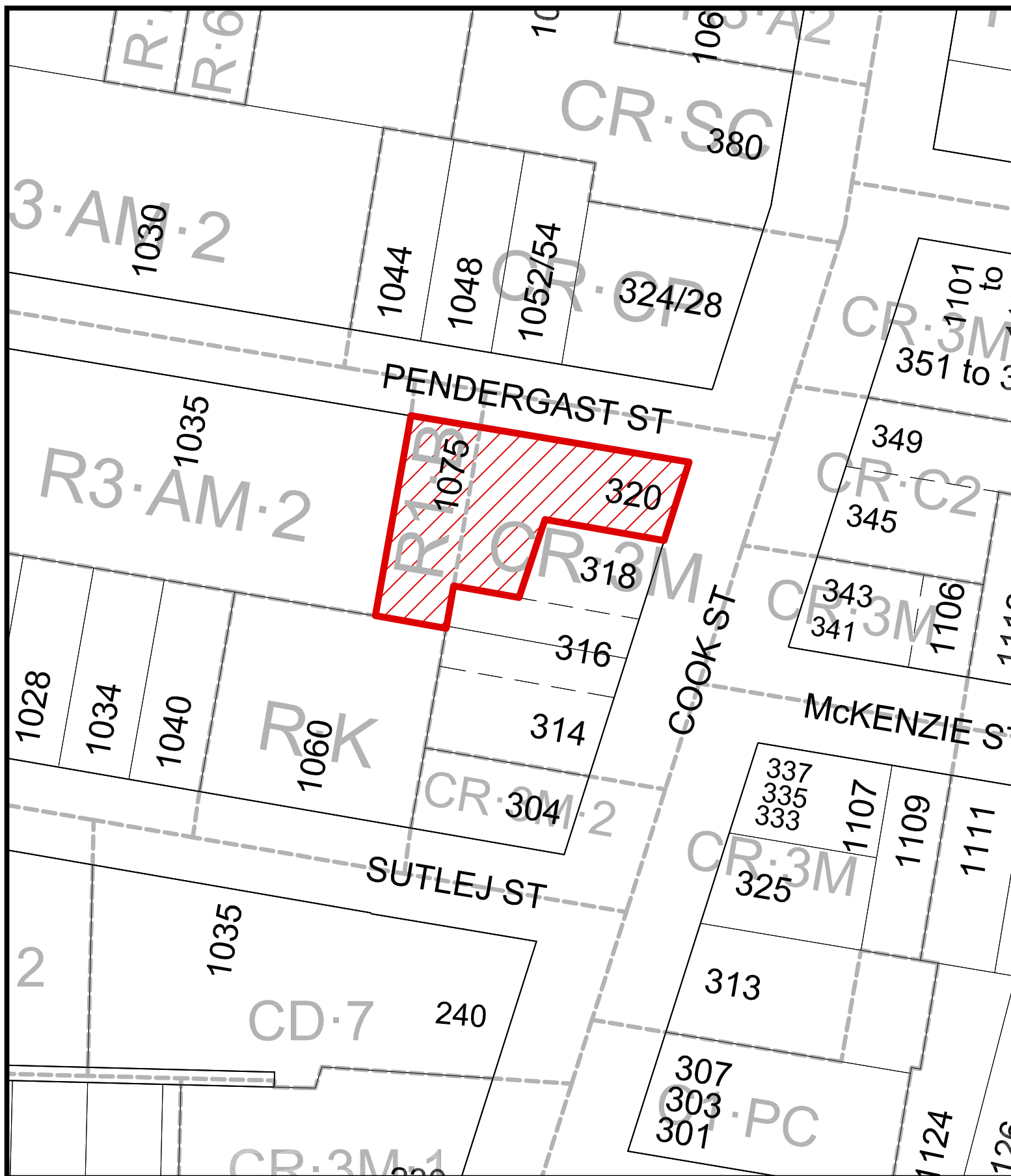
Alec Johnston
Senior Planner
Development Services Division

Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager.

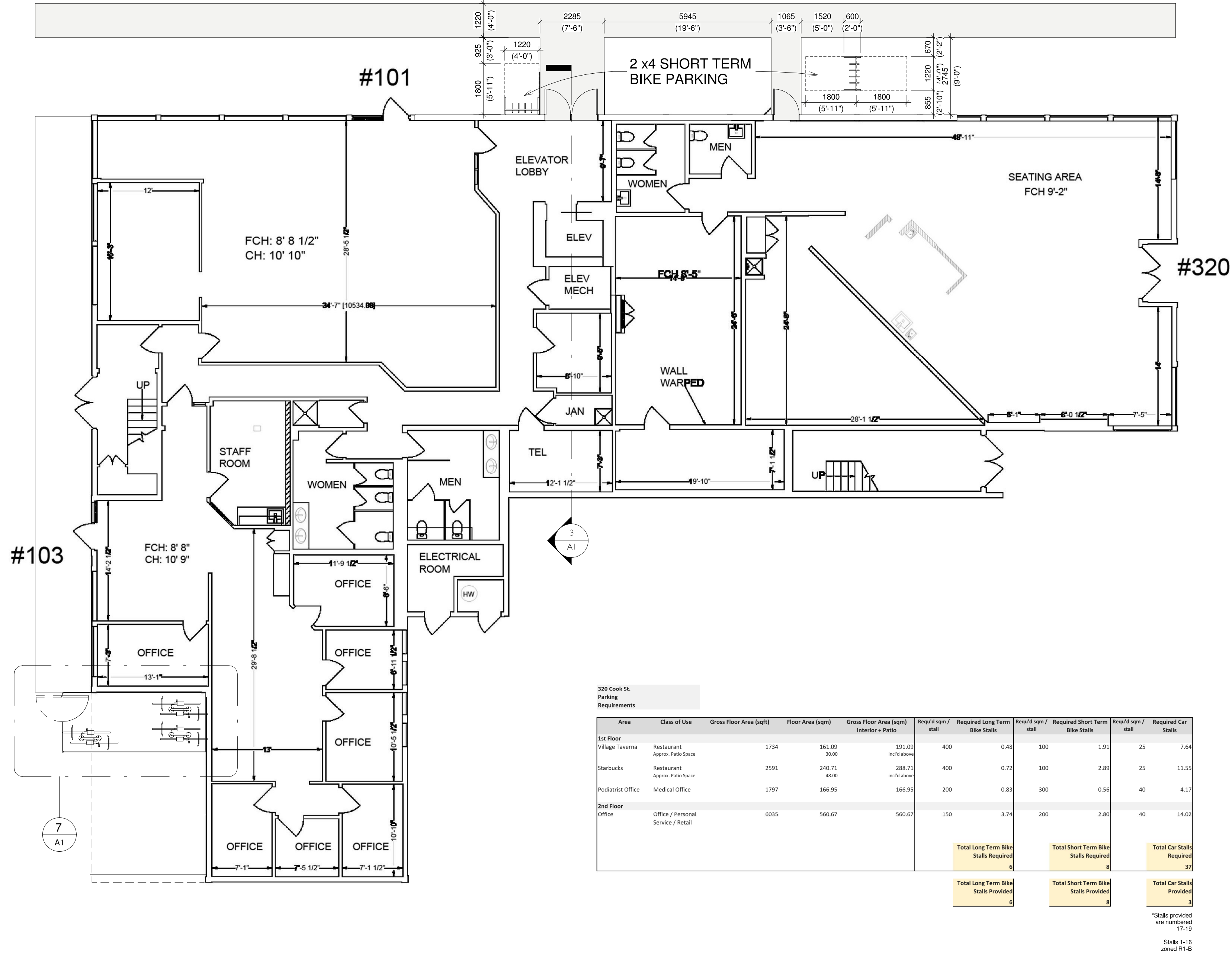
List of Attachments

- Attachment A: Subject Map
- Attachment B: Plans date stamped December 14, 2021
- Attachment C: Applicant's letter to Mayor and Council dated December 14, 2021

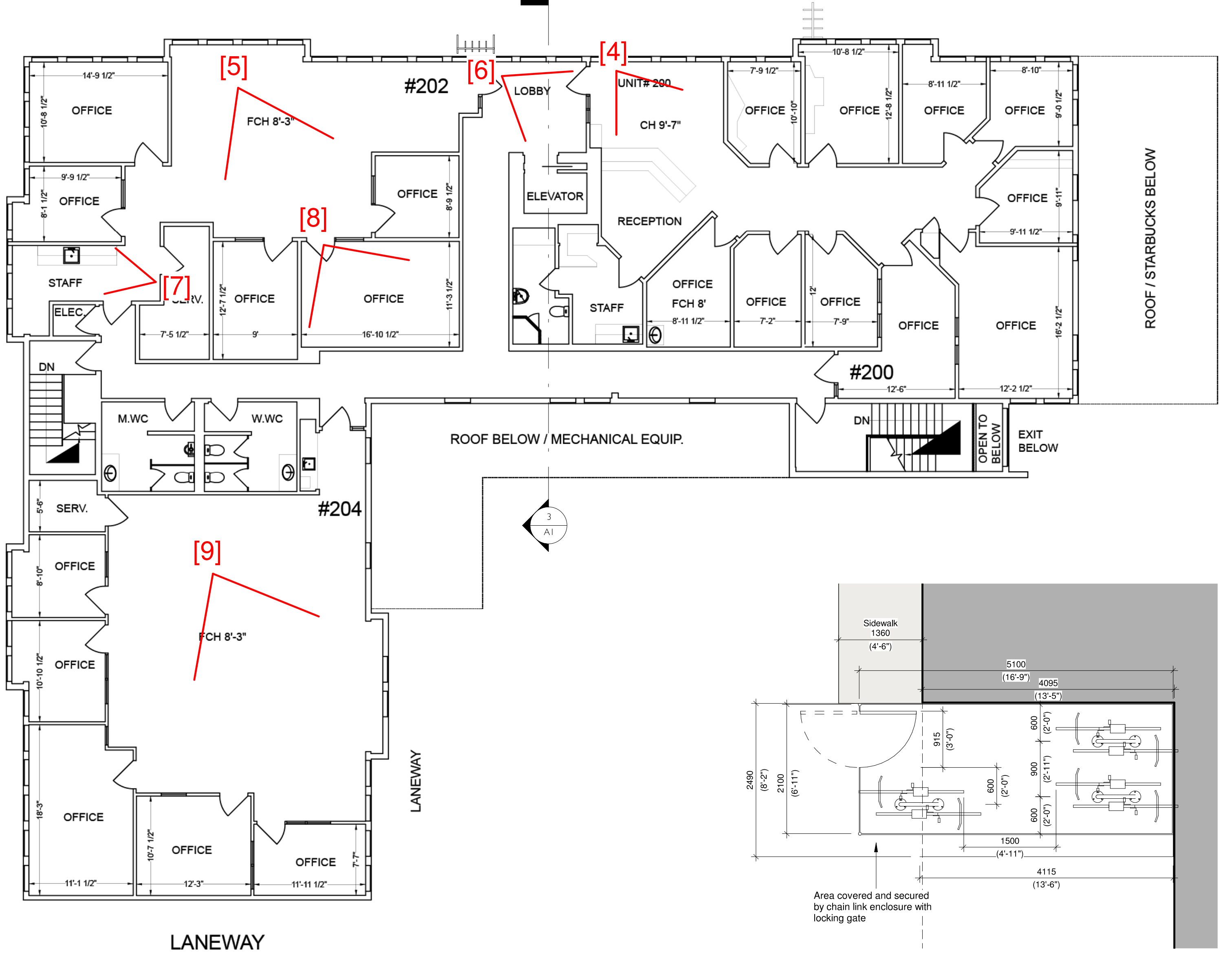


1075 Pendergast Street & 320 Cook Street
Temporary Use Permit No.00020





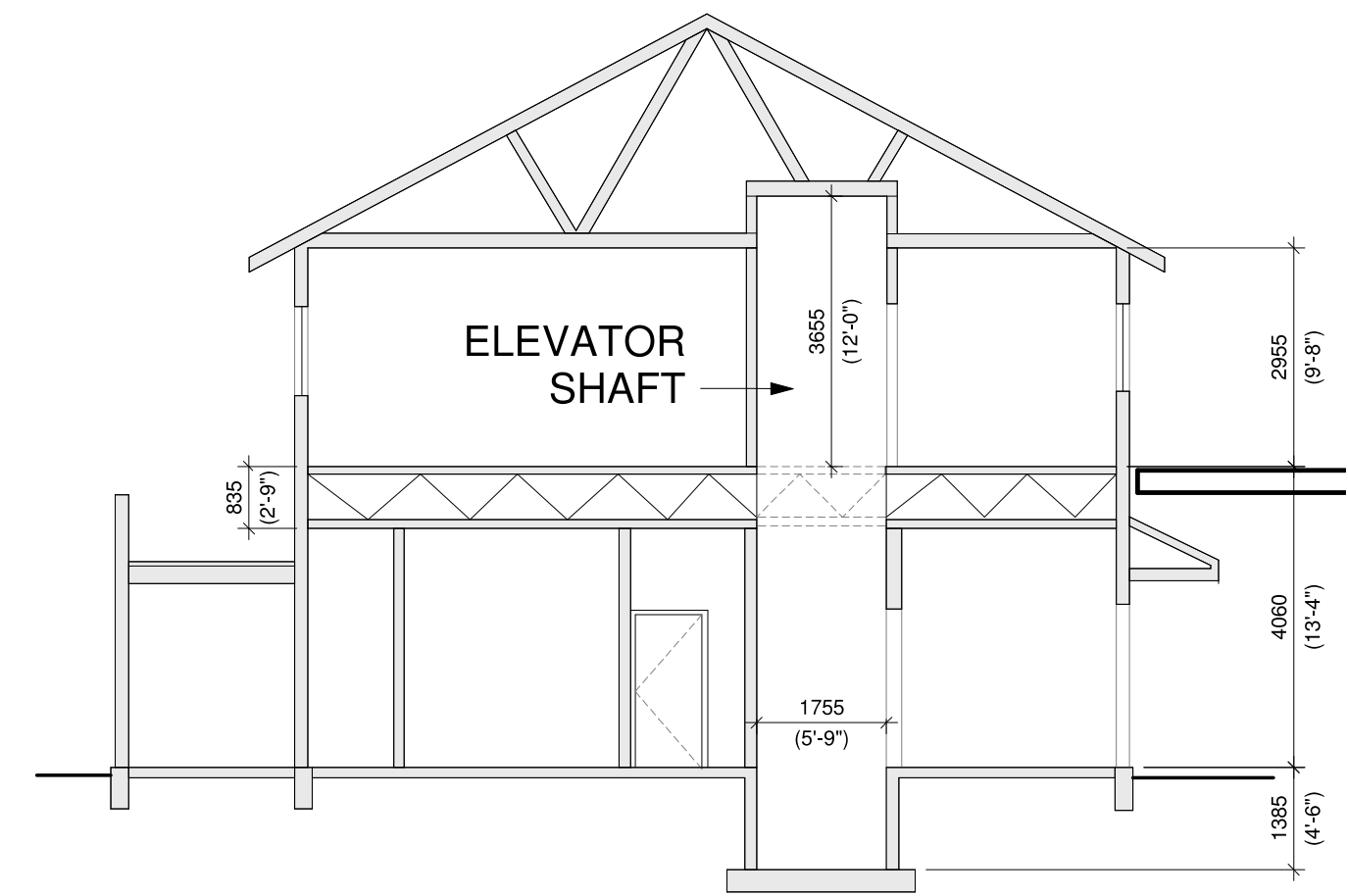
1 Existing Level 1 OFFICE / PERSONAL SERVICE / RETAIL
SCALE = 1 : 100



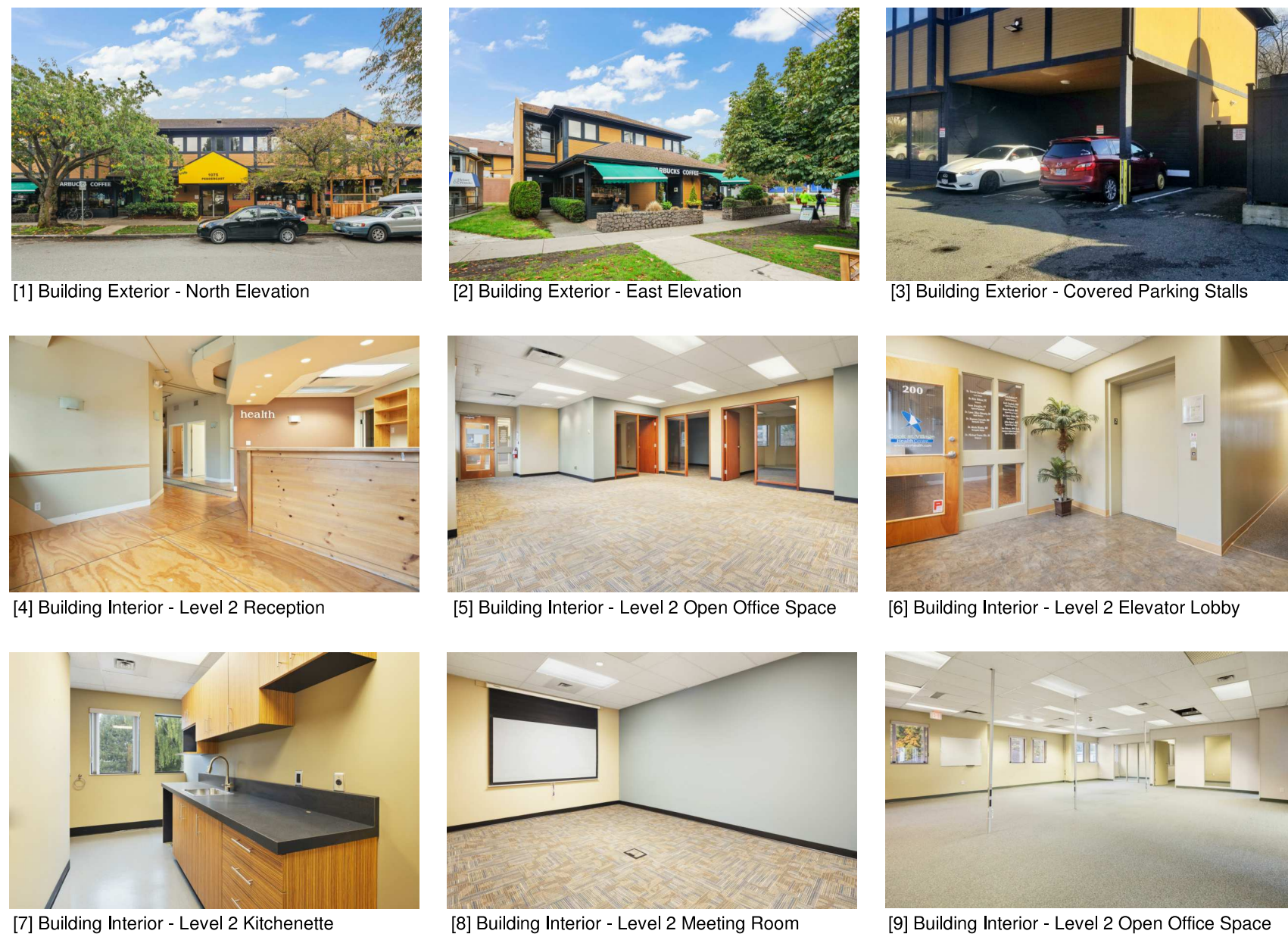
2 Existing Level 2 - OFFICE / PERSONAL SERVICE
SCALE = 1 : 100

7 Proposed Long Term Bicycle Storage
SCALE = 1 : 50

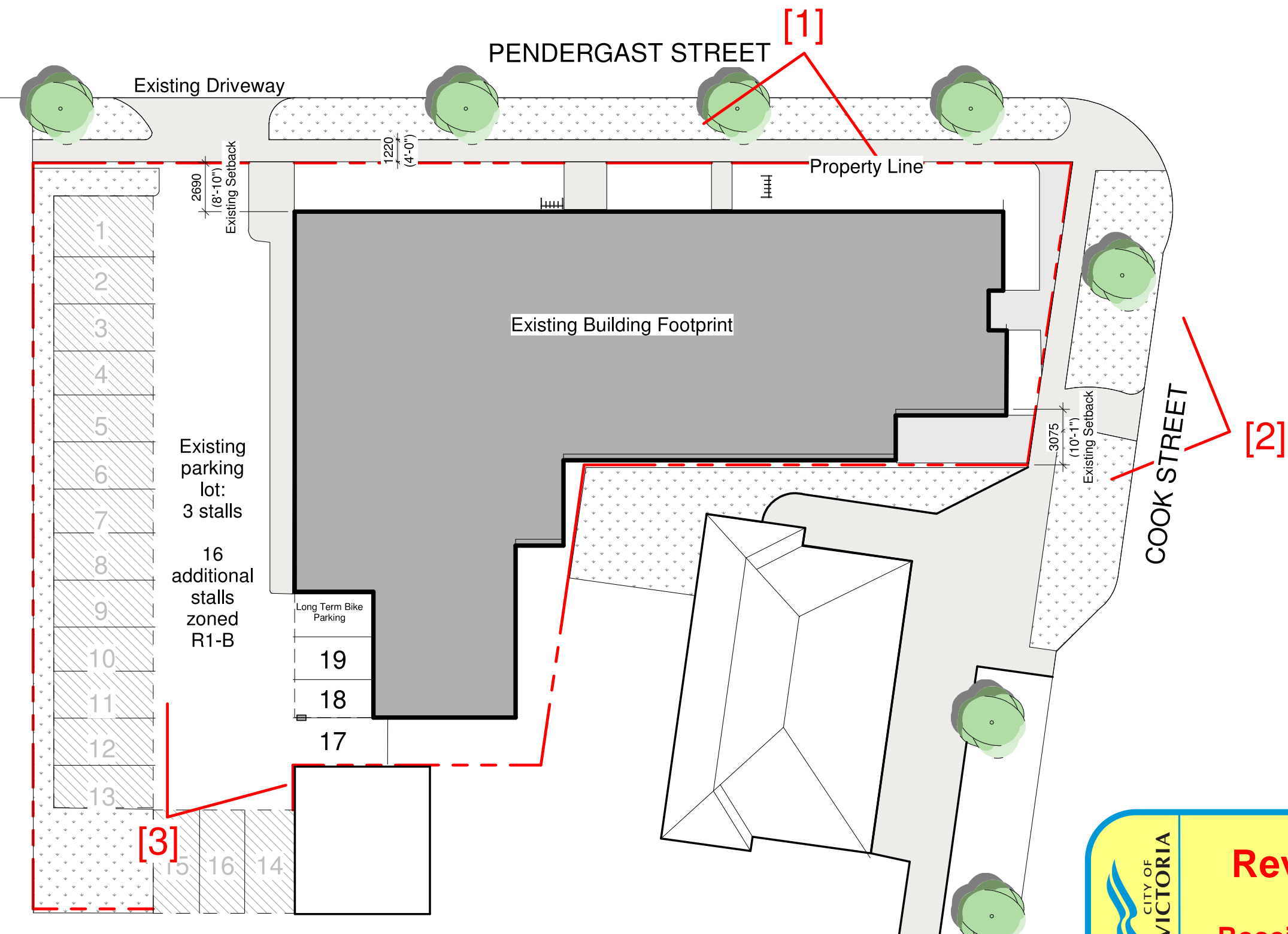
1	Revised Temporary Use Permit Application	Dec. 10, 2021
NO.	DESCRIPTION	DATE



3 Existing Building Section
SCALE = 1 : 100



4 Images
SCALE = 1 : 200



6 Existing Site
SCALE = 1 : 250

*Building height, footprint, and setbacks are existing



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320 Cook Street

Jawl Properties

Project North

Sheet Name

Existing Building Information for Temporary Use Permit Application

December 10, 2021

Scale

As indicated

Project #

2137

Revision

1

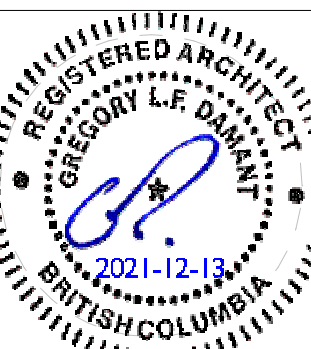
Dec. 10, 2021

Sheet #

A1

Revisions

Received Date: December 14, 2021



Jawl Properties

Suite 200-1515 Douglas Street, Victoria, BC V8W 2G4

Tel: 250 475 0338

jawlproperties.com

December 14, 2021

City Of Victoria
1 Centennial Square
Victoria, BC V8W 1P6

Attn: Mayor & Council

Re: 320 Cook Street / 1075 Pendergast Street Temporary Use Permit Application

Dear Mayor & Council,

Enclosed please find an application for a Temporary Use Permit to allow Office, Service Commercial, Retail and Professional uses on the 2nd floor of the property located at 320 Cook Street / 1075 Pendergast Street (the "Building"). We recently acquired the Building based on our high regard for the livability and vibrancy of Cook Street Village. The Building is currently home to Starbucks, The Village Taverna and a podiatrist's office on the ground floor. The second floor is fitted out as office and professional space and historically has been used as such but currently sits vacant due to a zoning issue.

We are not proposing any physical changes to the building's exterior or deviations from its historic pattern of use as part of this application. This application is to permit the building to be re-tenanted on the 2nd floor in keeping with how it has been used since it was constructed in 1980. There is 585 square meters of space on the second floor currently fitted out as three separate office spaces.

The site was developed in its present form in 1980. It is our understanding that the second-floor office space was initially fit-out for WorkSafe BC. While this second-floor use did not conform with zoning, it was exempt given it was for a Provincial Government entity and would remain exempt for subsequent non-governmental users as long as the 2nd floor office space did not sit vacant for more than six months. Subsequent to WorkSafe BC, the space was occupied by private sector tenants, the most recent being the Cook Street Village Health Centre, a mortgage brokerage and a technology company. The space is currently vacant and has been for more than six months.

The building is zoned CR-3M which stipulates multiple dwelling use above the ground floor. The Official Community Plan as well as the Fairfield Neighborhood Plan designate the Building's location as "Large Urban Village". This designation suggests mixed-use buildings up to four storeys in height with the opportunity for a floor space ratio of up to 2.5:1.

Converting the vacant second floor to residential use with in place tenants on the ground floor is technically, logistically and financially prohibitive. Accordingly, we are seeking a temporary use permit to allow the second floor to be returned to active use as office/commercial space until such time as the ground floor next becomes vacant, which may make a residential conversion of the second floor feasible or facilitate a more fulsome redevelopment of the property. We understand a Temporary Use Permit is valid for three years.

We are long standing proponents of vibrant and animated communities. We also believe that fully utilizing existing infrastructure is important from a sustainability perspective, particularly in the context of a growing community with increasing needs for services and the spaces that accommodate them. A Temporary Use Permit will allow this space to once again become activated adding employment opportunities within a dense, walkable village core and also provide services to the local community.

The building is currently served by 20 on site surface parking stalls in an adjacent surface parking lot. 16 of the 20 parking stalls are in a different zone and therefore do not count towards the parking figures noted in the table below, however in practise these 16 parking stalls also serve the building. The site currently has 8 short term bicycle parking spaces. The building was presumably constructed in accordance with the parking requirements prevailing at the time factoring in the usage of commercial retail use on the ground floor and office space above. The table below summarizes the current, schedule C and proposed parking provisioning but excludes the 16 stalls in the adjacent zone as noted above.

	Current	Schedule C Requirement	Proposed
Vehicle	4	37	3
Long Term Bicycle	0	6	6
Short Term Bicycle	8	8	8

A minimum of 6 long term bicycle parking spaces will be added prior to the occupancy of any of the 2nd floor space on the property in compliance with Schedule C requirements for long term parking. These will be located in what is currently parking stall 20.

While the above does not meet the vehicle parking requirement when calculated based on current Schedule C requirements, it is felt to be sufficient given the Building is well served by transit routes, proximate to bike lanes and located in a dense and walkable village core. The existing parking lot regularly has vacant stalls and presumably historically supported the Building when both the 1st and 2nd floor were occupied. When the 2nd floor is occupied, a BC Transit EcoPass Pass will be provided for every two-stall shortfall in parking for use by

tenants in the building (after factoring in the 16 stalls in the adjacent zone that serve the building it is anticipated nine EcoPasses will be required).

We did preliminary consultation with representatives of the CALUC and attended their public meeting on November 22nd. We have also reached out to the Cook Street Business Association and shared this proposal with them. The most consistent feedback we have received to date is that there is a sense of development fatigue and a preference to activate the existing structure to reduce the likelihood of the property being redeveloped in the short term. We are collecting a list of ideas for potential tenant types that neighbours would like to see in the community so we can target our marketing of the space accordingly.

In summary, a temporary use permit will allow the 2nd floor of the Building to be re-activated and will add employment opportunities and services within the vibrant Cook Street Village. This is consistent with the original and historic use of this property. Thank you for considering this application.

Sincerely,



Karen Jawl

Jawl Properties Ltd.

250 414 4172

karen.jawl@jawlproperties.com