



Planning and Land Use Committee Report For the Meeting of April 16, 2015

To: Planning and Land Use Committee **Date:** April 1, 2015

From: Andrea Hudson, Assistant Director, Community Planning

Subject: Heritage Alteration Permit Application No. 00191 for 1205 Wharf Street/
10 Bastion Square (The Local Patio)

RECOMMENDATIONS

1. That Council consider authorizing the issuance of Heritage Alteration Permit No. 00191 for 1205 Wharf Street/10 Bastion Square subject to:
 - i. Plans date stamped June 20, 2014.
 - ii. Development meeting all *Zoning Regulation Bylaw* requirements.
 - iii. Authorization provided by the property owner of 1205 Wharf Street/10 Bastion Square.
 - iv. Final plans to be generally in accordance with the plans identified above to the satisfaction of the Assistant Director of Community Planning.
2. That Council provide express permission for a temporary patio structure in Bastion Square in accordance with Section 16(1) of Parks Regulation Bylaw No. 07-059 subject to:
 - i. Final plans to be generally in accordance with the plans authorized by Heritage Alteration Permit No. 00191 for 1205 Wharf Street/10 Bastion Square to the satisfaction of the Assistant Director of Community Planning.
 - ii. Term of approval is for one year, commencing immediately until such time as reasonable notice revoking the authorization is provided by Council.
 - iii. That the Director of Parks has authority to renew the permit on an annual basis, provided the patio and structure do not conflict with any applicable laws and bylaws which are in force at the time of renewal.
 - iv. The applicant providing confirmation of approval by the BC Safety Authority for the installation of the proposed gas heaters.

LEGISLATIVE AUTHORITY

In accordance with sections 972 and 973 of the Local Government Act, Council may issue a Heritage Alteration Permit which may be subject to terms consistent with the purpose of heritage protection of the property, including: (i) conditions respecting the sequencing and timing of construction, (ii) conditions respecting the character of the alteration or action to be authorized, including landscaping and the siting, form, exterior design and finish of buildings and structures and (iii) security. Council may refuse to issue a Heritage Alteration Permit for an action that, in the opinion of Council, would not be consistent with the purpose of heritage protection of the property.

EXECUTIVE SUMMARY

The applicant holds a Sidewalk Patio Permit with the City of Victoria, originally issued in 2007 that permitted an outdoor seating area for a restaurant in Bastion Square. In seeking to add features to the established patio that could extend the patio season by mitigating weather conditions, the applicant had discussions with various City staff about a proposal to erect a trellis structure with natural gas heaters. In 2014, the applicant installed the trellis which was attached to an adjacent Heritage-Designated building and included support structures on the City's land. This work was undertaken without permits.

The events that led to this unauthorized work reveal that improvements to the sidewalk café permit process are needed to discourage this type of scenario from happening in future, to provide better customer service, and to achieve placemaking and economic development objectives. To that end, staff are working on process improvements and plan to update the Sidewalk Café Bylaw and Parks Bylaw to better reflect how sidewalk patios have evolved over the years, from being temporary seasonal measures to year round additions to Downtown businesses which contribute to placemaking and economic development. Council may reconsider the advice provided by staff in the attached report which focuses on consistency with heritage conservation area guidelines. In addition, this report includes broader considerations.

Given the circumstances that led to this scenario, and given that staff will be reconsidering sidewalk patio objectives as part of the bylaw update, including how patios can best be integrated into public spaces with heritage value, Council could consider authorizing the Heritage Alteration Permit and allowing the patio structure on City land on a temporary basis in the meantime. Following the outcome of the Sidewalk Café Bylaw and Parks Bylaw updates, Council may reconsider authorization in future if the structure is deemed inconsistent with the directions taken in an updated bylaw, but with reasonable notice provided to the applicant.

BACKGROUND

At the Council meeting of December 18, 2014, it was moved by Councillor Alto, seconded by Councillor Thornton-Joe:

1. *That Council Rescind the resolution passed on August 28, 2014 to decline the Heritage Alteration Permit Application for 1205 Wharf Street/10 Bastion Square, and*
2. *That the applicant be permitted the opportunity to resubmit their application to PLUC for the Committee's consideration.*

It was also requested that when staff report back, that the original staff report be included. Staff advised that the previous report, a timeline and overview of what transpired would be included in a follow up report (please refer to attached Council minutes).

ISSUES AND ANALYSIS

1. Relevant History and Timeline

The applicant holds a Sidewalk Patio Permit with the City of Victoria, originally issued in 2007 that permitted a patio of a defined area with low fencing to delineate the outdoor seating area. At that time, the City of Victoria was treating Bastion Square patios as though they were sidewalks pursuant to the Sidewalk Café Regulation Bylaw No. 91-137. In 2010, the applicant installed unauthorized glass enclosures to provide wind breaks for restaurant patrons. Staff required that these be removed as the work was not authorized by permit and the height of the enclosures was deemed too high.

Throughout 2011, the applicant proposed other solutions to the café space and met with various City staff to discuss the proposed changes. Pre-application discussions took place with some staff to review specific components of their proposal which included an extension to the patio area and proposed natural gas heaters affixed to a trellis attached to the adjacent building that could provide comfort for restaurant patrons and extend the patio season. Meetings with some staff occurred separately to review specific components of the proposal, including Engineering and Public Works staff which provided feedback on placement and height of the proposed trellis.

The Sidewalk Café Regulation Bylaw No. 91-137 does not anticipate natural gas heaters and only permits free-standing propane heaters if conditions are met related to safety, number and placement. Because the City was applying the Sidewalk Café Regulation Bylaw to Bastion Square, the provisions of that bylaw were being applied to the proposal for natural gas heaters affixed to a permanent structure (rather than free-standing), and it was deemed to be non-compliant. In 2012, there were discussions about this with the applicant and the need for the Sidewalk Café Regulation Bylaw to be updated to reflect current technologies and other design components associated with outdoor patios, but that work had not yet commenced.

In 2013, the applicant consulted with Fire Department staff for advice on the natural gas heaters. Support was provided in writing to the applicant focused on the perspective of safety (please see attached letter dated April 3, 2013).

Following these discussions, the applicant installed the trellis. In 2014, a complaint was made to the City and Bylaw Enforcement staff became involved to investigate the situation. It was determined that a Heritage Alteration Permit was required given the structure was affixed to a building protected through Heritage Designation, in addition to needing a Sidewalk Café Permit (or an amendment to the existing permit). The City advised the applicant that this work was considered unauthorized and that permits would be needed to authorize the work. The requirement for a Heritage Alteration Permit was not communicated to the applicant during earlier discussions as heritage planning staff representing the Sustainable Planning and Community Development Department were not aware of the proposed trellis structure at that time.

The Heritage Alteration Permit was submitted by the applicant and reviewed by the Heritage Advisory Panel which recommended that the application be approved. Sustainable Planning and Community Development Department staff did not support the application as there were concerns with the impact of the horizontal beam on public views, *Downtown Core Area Plan* guidelines that encourage low-height structures for outdoor dining areas, and impact to the character of the historic place. Staff had recommended that the application be declined and the beam be removed, and the Planning and Land Use Committee passed this recommendation. Council ratified this decision at the August 28, 2014 meeting. This decision was later rescinded so the matter could be reconsidered given the chronology of events leading to this situation.

2. Lessons Learned

2.1 Coordinated Approach to Application Reviews

The applicant's chronology of events and this high level summary from staff's perspective reveal procedural aspects of the current sidewalk patio process that could be improved. There are many considerations with sidewalk patio proposals that span various City departments ranging from placemaking (urban design and heritage conservation), economic development (encouraging active commercial uses at ground level throughout Downtown including restaurants that contribute to sidewalk interest and vibrancy), transportation (in the form of

pedestrian circulation), fire and safety (regarding types of heat sources), structural considerations and how proposed patios may affect servicing and other infrastructure within the public right-of-way.

Discussions between the applicant and individual staff on separate occasions prevented staff from providing feedback that covered the full range of considerations in a coordinated manner when the proposal was being conceived. This resulted in the applicant receiving conflicting advice in piecemeal fashion, and also placed staff in difficult positions when some aspects were supported by some departments at early stages, and issues regarding other aspects were discovered later by others. If coordinated reviews were undertaken, staff would be able to provide collective advice back to an applicant so issues (if there are any) can be addressed in a timely manner.

2.2 Sidewalk Café Bylaw Update

The chronology of events also indicates that the Sidewalk Café Bylaw should be updated as it does not anticipate structures or types of technology (such as heat sources) that are commonly installed as part of patios. Further, Bastion Square does not meet the definition of “sidewalk” in the Sidewalk Café Bylaw, and is designated as a park, both in the *Official Community Plan* and in Parks Regulation Bylaw No. 07-059. Pursuant to section 16(1) of the Parks Regulation Bylaw, structures are not permitted in Bastion Square unless permitted by that bylaw, or with express prior permission of Council.

Even though permits for structures in Bastion Square fall under the Parks Regulation Bylaw, and not under the Sidewalk Café Bylaw, patio permits have been issued for restaurants and cafés along the perimeter of Bastion Square over the years given that Bastion Square is an urban plaza that is integrated with the surrounding public rights-of-way, particularly Wharf Street. These bylaws need to be updated so patio permits can be administered consistently in accordance with Council direction for urban spaces like Bastion and Centennial Squares, with considerations for how patios can best be integrated into public spaces with heritage value. In the meantime, should Council wish to sanction any structures associated with patios in these squares, they would need to be approved through a resolution of Council and in accordance with the Parks Regulation Bylaw which permits consideration for structures, rather than the Sidewalk Café Bylaw.

2.3 Administration of Sidewalk Café Permits

In considering improvements to the sidewalk permit process, staff reconsidered which City department should administer the permit reviews and lead the coordinated approach. Given the objectives for sidewalk patios to contribute to placemaking and economic development, and the negotiations with applicants needed in design development, staff are concluding that sidewalk patios be administered by the Sustainable Planning and Community Development Department. This change has not formally been implemented; however, staff are working together to deal with the transition and formalizing a coordinated approach to permit reviews, similar to how other development applications are vetted by staff representatives across departments.

This will ensure that City staff are able to discuss various and sometimes conflicting considerations with applicants in a timely manner, and work through potential issues to find solutions with applicants. Staff can also advise if other types of permits are necessary depending on the proposal.

3. Reconsideration of the Heritage Alteration Permit Application for The Local

While staff are committed to improving the sidewalk patio permitting process to improve customer service and achieve patios that make positive contributions to street vibrancy, Council must also reconsider this specific situation at 1205 Wharf Street/10 Bastion Square (The Local patio) given the previous Council decision was rescinded.

In the attached report, staff recommended that the Heritage Alteration Permit be declined due to concerns over impact on the character of the historic place and on public views out of the square. Normally, when application proposals are received, planning staff are presented with a design rationale to understand the applicant's objectives and design choices, are able to provide advice based on established policy and guidelines, and reach design compromises that achieve objectives on both sides. There was no opportunity to discuss revisions to the proposal, such as reduction of the extent of the beam or adjustments in its height, given it was already installed based on discussions the applicant had with other staff.

In a recent meeting on site, planning staff met with the applicant to better understand their design rationale. The applicant indicated that the height of the trellis was chosen to coincide with the height of the railing of the upper public space to the east, that wood was chosen for the horizontal beam to complement other materials in and adjacent to the square, that the thickness of the beam was needed to ensure the added weight of the heaters would be structurally safe, and the extent of the beam was chosen to be continuous so one natural gas line could run unencumbered to all the heaters that would be placed along it.

From the perspective of heritage conservation, there may well have been alternate designs that could have been less intrusive on the historic place. To address the impact to public views, the beam would ideally have been placed slightly lower to better align with the railing of the upper public space. On the other hand, the overhead beam with heaters, instead of tall glass windbreaks, provides better street vibrancy due to its open air characteristics. Council may reconsider the advice provided by staff in the attached report which focuses on staff's interpretation of the applicable heritage conservation area guidelines. This report includes broader considerations.

A final technical consideration is the proposed natural gas heaters, which is governed by the BC Safety Authority and requires gas installation permits. Should Council wish to authorize this proposal, it is recommended that the applicant provide the City with confirmation of BC Safety Authority approval for the installation.

OPTIONS AND IMPACTS

Option 1

Council may approve the proposal.

Option 1 Impact

This would permit the structure to be affixed to the Heritage-Designated building on adjacent private property and would authorize its extension onto City lands. Council could approve this structure with the condition that authorization could be revoked in future so the situation can be reassessed once fundamental sidewalk patio objectives are reconsidered and implemented through a new bylaw.

Option 2

Council may approve the structure conditional on revisions that could include lowering the beam to better align with the railing of the upper public space to the east to improve public views out to the harbour or other interventions that could lessen the visual impact of the trellis:

1. That Council consider authorizing the issuance of Heritage Alteration Permit No. 00191 for 1205 Wharf Street/10 Bastion Square subject to:
 - i. Plans date stamped June 20, 2014.
 - ii. Development meeting all *Zoning Regulation Bylaw* requirements,
 - iii. Authorization provided by the property owner of 1205 Wharf Street/10 Bastion Square.
 - iv. Lowering the beam to lessen the impact to public views of the harbour to the satisfaction of the Assistant Director of Community Planning.
 - v. Final plans to be generally in accordance with the plans identified above to the satisfaction of the Assistant Director of Community Planning.
2. That Council provide express permission for a temporary patio structure in Bastion Square in accordance with Section 16(1) of Parks Regulation Bylaw No. 07-059 on the following conditions:
 - i. Final plans to be generally in accordance with the plans authorized by Heritage Alteration Permit No. 00191 for 1205 Wharf Street/10 Bastion Square to the satisfaction of the Assistant Director of Community Planning.
 - ii. Term of approval is for one year, commencing immediately until such time as reasonable notice revoking the authorization is provided by Council.
 - iii. That the Director of Parks has authority to renew the permit on an annual basis, provided the patio and structure do not conflict with any applicable laws and bylaws which are in force at the time of renewal.
 - iv. The applicant providing confirmation of approval by the BC Safety Authority for the installation of the proposed gas heaters.

Option 2 Impact

This option, while an improvement from a placemaking perspective, may not be practical as the applicant is trying to achieve safe clearances between the heaters and patio patrons.

Option 3

Council may decline the proposal through the following motions:

1. That Council decline Heritage Alteration Permit Application #00191 for 1205 Wharf Street/10 Bastion Square.
2. That the beam be removed and that the exterior wall of the Reid Block damaged by the installation be restored to the satisfaction of the Assistant Director of Community Planning.
3. That any damage to the sidewalk area caused by the installation be restored to the satisfaction of the Director of Engineering and Public Works.

Option 3 Impact

The City would resume enforcement action, the applicant would need to remove the beam and consider other design solutions with staff.

OFFICIAL COMMUNITY PLAN CONSISTENCY STATEMENT

If Council considers that this proposal is consistent with the guidelines of Development Permit Area 1 (HC): Core Historic, Council may authorize a Heritage Alteration Permit without an OCP amendment.

CONCLUSIONS

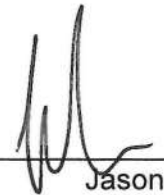
Given the events that led to this unauthorized work, and that staff are working to improve the sidewalk café permit process, it is recommended that Council approve the Heritage Alteration Permit and allow the patio structure on a temporary basis under the Parks Regulation Bylaw while sidewalk patio objectives are reconsidered as part of updating the Sidewalk Café Bylaw and the Parks Regulation Bylaw. Following the outcome of that process, Council may revoke authorization in future if the structure is deemed inconsistent with the objectives of the Sidewalk Café Bylaw update, but with reasonable notice to the applicant.

Respectfully submitted,



Andrea Hudson
Assistant Director, Community Planning
Sustainable Planning and Community Development Department

Report accepted and recommended by the City Manager:


Jason Johnson

Date: April 9, 2015

AH/ljm

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List of Attachments

- Council minutes dated December 18, 2014
- Planning and Land Use Committee minutes dated December 11, 2014
- Planning and Land Use Committee report dated November 30, 2014 which includes Council minutes dated November 27, 2014 and Council Member Motion dated November 27, 2014
- Applicant's documented chronology synopsis dated September 18, 2014
- Council minutes dated August 28, 2014
- Planning and Land Use Committee minutes dated August 21, 2014
- Planning and Land Use Committee report dated August 7, 2014
- Letter from City of Victoria to applicant dated April 3, 2013.

REPORTS OF THE COMMITTEES

3. Planning and Land Use Committee – December 11, 2014

4. Chronology Synopsis for 1205 Wharf Street / 10 Bastion Square (The Local)

It was moved by Councillor Alto, seconded by Councillor Thornton-Joe,;

1. That Council Rescind the resolution passed on August 28, 2014 to decline the Heritage Alteration Permit Application for 1205 Wharf Street / 10 Bastion Square, and;
2. That the applicant be permitted the opportunity to resubmit their application to PLUC for the Committee's consideration.

Councillor Madoff said that she sees value in reviewing the process, but not Council's decision.

Councillor Thornton-Joe said that she favours reviewing the process to see if changes are required for applications. She is concerned that there could have been a difference in the vote if all this information was before them at the time they made their decision.

Councillor Young said he made his decision on the merits of the case; however, he is prepared examine possibilities that an error was made and to look at this application again.

Mayor Helps asked if the motion to rescind passes, does Council debate the merits of the motion or send it back to PLUC.

Robert Woodland (Corporate Administrator): The way the motion is worded it would cancel the previous decision and the application would be considered at PLUC as a new application.

Councillor Isitt asked if the City has its own timeline, or only the one from the application.

Jocelyn Jenkyns (General Manager, Victoria Conference Centre): The timeline provided to Council was created by the applicant and the City's information was added in coloured text.

Councillor Isitt said that it is hard to determine the pertinent facts; are we accepting what the applicant says?

Councillor Loveday said that Council asked for an un-redacted timeline without using staff time and this is it.

For:

***Mayor Helps, Councillors Alto,
Coleman, Lucas, Thornton-Joe and Young***

Against:

Councillors Isitt, Loveday and Madoff

Jason Johnson (City Manager): A new staff report will be created for PLUC along with the timeline.

Mayor Helps requested that the original staff report be included.

Jason Johnson: Everything will be included as well as a fulsome overview report.

5.11 1205 Wharf Street / 10 Bastion Square (The Local)

Committee received a report and background information regarding 1205 Wharf Street / 10 Bastion Square (The Local) as it relates to the outdoor patio area and the timber beam that has been attached to the Heritage-Designated building as part of the sidewalk café. Committee was asked to rescind the decision from the August 21, 2014, Planning and Land Use Committee and reconsider the application based on additional information provided by the applicant.

Committee discussed:

- The recommendation to rescind the decision was tabled at Council and Council requested the chronology leading up to the decision made at the August meeting.
- When the application initially came forward there may have been a perception that clear and timely guidance was not provided to the applicant.
- How to proceed with the recommendation to rescind the original motion. If Council feels they have enough information, then they could decide to rescind or not. Council would lift the motion from the table and then have a debate on the motion to rescind.
- That a clear chronology of the events leading up to the August meeting should be provided in order to make an informed decision.

Action: It was moved by Councillor Isitt, and seconded by Councillor Alto, that Committee refer the report and background information including a chronology of events to the Council Meeting of December 18, 2014.

CARRIED UNANIMOUSLY 14/PLUC0315



Planning and Land Use Committee Report

For the meeting of December 11, 2014

Date: November 30, 2014 **From:** Jocelyn Jenkyns, General Manager, VCC

Subject: 1205 Wharf Street/10 Bastion Square – The Local
Within DPA 1 9HC) – Core Historic
Zoned: CA-3C-Old Town District

Executive Summary

The purpose of this report is to present the Planning and Land Use Committee with information and recommendations regarding the activities undertaken with regard to The Local Bar and Grill as it relates to outdoor patio area and the timber beam that has been attached to the Heritage-Designated building as part of the sidewalk cafe.

Recommendation:

That Council rescind the decision from the August 21, 2014 PLUC meeting and reconsider the existing application in light of the chronology of events and the additional information from the applicant.

Respectfully submitted

A handwritten signature in cursive script that reads 'Jocelyn Jenkyns' followed by a horizontal line.

Jocelyn Jenkyns
GM Victoria Conference Centre

Report accepted and recommended by the City Manager: _____

A handwritten signature in cursive script, followed by the date 'December 10, 2014' written in a similar style.

Planning & Land Use
Standing Committee

DEC 11, 2014

Late Item# 14A

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1.0 Purpose

The purpose of this report is to present the Planning and Land Use Committee with information and recommendations regarding the activities undertaken with regard to The Local Bar and Grill as it relates to the outdoor patio area and the timber beam that has been attached to the Heritage-Designated building as part of the sidewalk café.

2.0 Background

The Local Bar and Grill has been in operation since 2007. In March 2007, a permit for a sidewalk café was submitted by Jeremy Petzing, the owner and operator of the establishment. In April 2007, a sidewalk café permit was approved based on the footprint of the café. The patio has always complied with the City of Victoria patio regulations as condition of the lease and has been operating without incident since 2007.

In 2011, the owner started to install a glass windbreak similar to the enclosure at a neighbouring establishment and was issued a stop work order due to the height of the glass. Two years later the windbreak was approved but with limited glass height. Based on that, the owner began to explore a way to heat the space to extend the seasonality of the operation.

For the last three years the City and the owner/operator have corresponded extensively on the issue of acceptable heaters for the patio. In the spring of 2013 the owner/operator submitted a rendering for a trellis beam, natural gas heaters and patio glazing. Following that, various departments were involved in aspects of this file but were unable to resolve the issue at hand as the proposal falls outside the parameters of the current bylaw.

The City indicated that a review of the Sidewalk Café Bylaw would be complete by 2014.

3.0 Issues and Analysis

Victoria as with many other jurisdictions has experienced an increase in the demand for patio spaces as a way to increase the hospitality season and extend the vibrancy of the downtown. Central to the city being able to respond to proposals outside of the existing bylaw parameters is the review of the Sidewalk Café Bylaw.

A review of the correspondence, files, conversations and activity on this file over the last seven years has been conducted. The chronology now involves five departments: Engineering, Sustainable Planning and Community Development, Legislative and Regulatory Services, Fire and Economic Development. A meeting with representatives from all five departments was convened on August 26, 2014.

There have also been a number of meetings held directly with the owner/operator of The Local Bar and Grill and between Sustainable Planning and Community Development and the owner/operator.

From a lessons learned perspective the City is taking steps to provide an effective one stop approach to future sidewalk café applications.

Recommendation:

That Council rescind the decision from the August 21, 2014 PLUC meeting and reconsider the

existing application at a future meeting of PLUC in light of the chronology of events and the additional information from the applicant.

That Council consider the review and update of the Sidewalk Café Bylaw as a priority for 2015-2019 Strategic Plan.

NEW BUSINESS

2. Heritage Alteration Permit Application for 1205 Wharf Street/10 Bastion Square

Council received a Council member motion dated November 27, 2014 from Councillors Alto and Thornton-Joe regarding the Heritage Alteration Permit Application for 1205 Wharf Street / 10 Bastion Square that the Planning motion that was declined by Council at its meeting of August 28, 2014. The Councillors are proposing that the motion to decline be rescinded and that the applicant be permitted to provide a full presentation to the Planning and Land Use Committee on this application.

Motion

It was moved by Councillor Thornton-Joe, seconded by Councillor Alto:

1. That Council rescind the Council resolution passed on August 28, 2014 to decline the Heritage Alteration Permit Application for 1205 Wharf Street/10 Bastion Square.
2. That the applicant be permitted the opportunity to resubmit their application to PLUC for the Committee's consideration.

Acting Mayor Madoff said it would be appropriate to have a forensic review of the process to identify process issues. This may preclude the need to reconsider the application.

Jocelyn Jenkyns (Acting City Manager): Staff have met with the applicant and a chronological review of the process has been completed.

Councillor Isitt said he like to see staff's review before rescinding Council's motion. A motion to postpone to the December 18, 2014 meeting would be appropriate.

Acting Mayor Madoff asked if there would be an issue postponing this motion to the December 18, 2014 Governance and Priorities Committee meeting?

Robert Woodland: The motion to postpone would hold the motion at the Council meeting and a subsequent motion to request a report on the outcome of the discussions between staff and the applicant could come to Governance and Priorities Committee.

Councillor Helps said it should be referred to Planning and Land Use Committee.

Acting Mayor Madoff said they need to be clear on the intent of the motion.

Motion

It was moved by Councillor Isitt, seconded by Councillor Alto, that the motion be referred to the next Planning and Land Use Committee with staff providing information at that time.

Councillor Isitt said Council should hear staff's information first and then consider if they wish to rescind the resolution.

Acting Mayor Madoff said she is not in favour of rescinding the resolution.

Council discussed procedure with staff.

Robert Woodland: The motion on the floor to rescind can be postponed. A subsequent motion would be to request a report with further information from the City Manager. The motion to rescind could be reconsidered at a subsequent meeting.

Council Isitt withdrew his motion.

Motion

It was moved by Councillor Alto, seconded by Councillor Isitt, that Council postpone consideration of the motion pending further information from staff. Carried Unanimously

Motion

It was moved by Councillor Alto, seconded by Councillor Isitt, that Council direct staff to report on the chronology of the application as described by the Acting City Manager at the next Planning and Land Use Standing Committee.

Carried Unanimously



Council Member Motion

For the Council Meeting of November 27, 2014

Date: November 27, 2014 **From:** Councillor Thornton-Joe and Councillor Alto
Subject: Heritage Alteration Permit Application for 1205 Wharf Street/10 Bastion Square

Summary

At the Council meeting of August 28, 2014, Council passed a motion to decline the Heritage Alteration Permit Application for 1205 Wharf Street/10 Bastion Square, known as "The Local". The motion directed that a timber beam be removed and the exterior wall of the Reid Block be restored and that any damage to the sidewalk area caused by the installation be restored (see attached).

The applicant addressed Council at the Council meeting of October 9, 2014 and provided further details about their permit application. The applicant noted that staff feedback regarding the height of the beam was considered when it was installed and highlighted attention that was given to heritage and beautification qualities.

The applicant has requested that the Sustainable Planning and Community Development department provide their PowerPoint presentation to the Planning and Land Use Committee in its entirety, as opposed to the modified version that was presented on August 21, 2014. The applicant requested a letter from the Victoria Fire Department, supporting the use of approved and properly installed natural gas heaters, also be included for Council's consideration.

Information relevant to this issue was not included in the staff presentation to the Planning and Land Use Committee on August 21, 2014. Therefore, I am proposing a motion to rescind the previous decision on August 28, 2014 to decline the Heritage Alteration Permit Application. This would enable a complete and fair presentation to the Planning and Land Use Committee.

Recommendation

1. That Council rescind the resolution passed on August 28, 2014 to decline the Heritage Alteration Permit Application for 1205 Wharf Street/10 Bastion Square.
2. That the applicant be permitted the opportunity to resubmit their application to PLUC for the Committee's consideration.

Attachment

August 28, 2014 Council Motion to decline Heritage Alteration Permit Application for 1205 Wharf Street/10 Bastion Square.

Respectfully submitted,

A handwritten signature in cursive script that reads "Charlayne Thornton-Joe".

Councillor Charlayne Thornton-Joe

A handwritten signature in cursive script that reads "Marianne Alto".

Councillor Marianne Alto



The Local Patio - SWL 00052 – Documented Chronology Synopsis - September 18th, 2014

- March 14, 2007 – sidewalk café permit submitted by Jeremy Petzing
- April 17, 2007 - sidewalk café permit approved (invoiced area consistent with approved plan on file)
- April 17, 2007 – approved sidewalk café permit plans show “footprint of café”
- Note on permit - Permit conditions do not require annual re-application **unless** changes are made to the original approved design
- September 24th, 2007 - Original Patio Drawings and Application
 - August 28, 2009 – Sharon P. photo of patio with measurements and notes that railings need to be moved to meet permit offsets
 - Feb 2010 – received expanded area café footprint plan - **not approved**
- August 2010 - Original Windbreak installation (stop work order issued by Mike Hill)
- August 12th 2010 - Letter to City Officials outlines 6 key points
- Letter from Craig Stenberg (Land Development) to Jeremy Petzing, summarizing nature of work done without permit, adding height to rails and enclosing with glass, increasing patio area, required steps to correct, and steps to apply for amendments to get approval
- April 11th, 2011 – Drawings ID7.01 – 7.04 of proposed bench and timber wrap of Bastion, reviewed on site with Mike Hill and Jeremy Petzing (not applied for)
- 2011 & 2012 - Discussions with Mike Hill and Jeremy Petzing on site at Bastion Square re: patio boundary, height of glass railing and patio heaters, meetings with planners Andrea Hudson and Alison Meyer (See Letter to Jocelyn Jenkyns Sept 18, 2014)
- September 11th, 2012 - By-Law # 91-137 review re: patio heaters
- January 2013 - Proposed Revisions to Sidewalk By-Law with recommended amendments presented to city staff and some councilors
- January 25th, 2013 – Original coloured 3D rendering with trellis beam and patio glazing
- March 5th, 2013 – Revised Rendering with selected natural gas patio heaters
- March 5th, 2013 - Meeting with City of Victoria Fire Department Inspectors Greg Batters & Megan Sabell re: City of Victoria Sidewalk Cafes Regulations Bylaw # 91-137 and patio heater safety
- April 3rd, 2013 - Letter from City of Victoria Fire Inspector Megan Sabell stating preference for natural gas heaters with regards to public safety
- April 11th, 2013 - Meeting with Jeff Mitton and Kevin Smitten re: patio windbreaks, Sidewalk Café intentions, Pedestrian accommodation, Infrastructure, aesthetics, public space, possible fee increase, general compliance, form & character, room for unique approach, The Local Kitchen specifics, Legislative Services request to Land Development for opinions, 110 sidewalk cafes to be reviewed in September 2013, not necessarily any public input into review, tiered patio system to be established, example patios discussed, Moxie's, Irish Times, Earls
- Meeting with JC Scott fundamentally as described – goal of September 2013 bylaw amendment revised to September 2014 (expanded scope of report, coordination with Legislative Services – Council approval of Use of Public Space) At request of Legislative Services, report shifted to post election.
- April 15th, 2013 - Site meeting with Jeremy Petzing, review notes from meeting with city re: engineering required for glazing and timber trellis
- April 24th, 2013 - Revised rendering with height of glazing shown
- May 14th, 2013 - Email from Kevin Smitten “...possible approval of the overhead beam...”



- Confirmed with Kevin S. that he requested the beam be removed from submission
- May 15th, 2013 Revised rendering showing windbreak at approved height with trellis beam sent to city
- May 16th 2013 - Approval of glass windbreak – beam not approved, at staff request, removed from submission
- May 16th, 2013 - Note to Kevin Smitten that drawing on file at city hall is out of date and is not the correct 2007 approved plan Letter to Kevin Smitten requesting final decision on patio boundary as season is starting
- May 17th, 2013 Note to Kevin Smitten pointing out difficulty in process and city file errors re: patio plans –staff only have the approved plans on file to work with. There may be ways to forensically tighten up the files, however this is the only file of just over 100 active sidewalk café files where problems regarding what has been approved is suggested.
- May 17th, 2013, - Sept 24 - 2007 site plan drawing sent to city –not the approved drawing
- May 20th, 2013 – Patio plan with revised boundary generated and sent to city – not approved
- May 20th, 2013 - Email to Kevin Smitten expressing concern with process and hardship for my client
- May 22nd, 2013 – Revised patio drawing sent to city with boundaries as verbally approved by Mike Hill and as the patio had operated for two previous seasons – not consistent with staff process, or Mike Hill's role
- May 22nd, 2013 - Letter from Kevin Smitten approving patio boundary
- May 22nd, 2013 – Note from Jeff Mitton thanking Kevin for addressing this file
- May 23rd, 2013 – Site meeting at patio re: approved glazing
- July 6th, 2013 – Vancouver streetscape initiative from Mayor Gregor Robertson sent to Jeff Mitton, Kevin Smitten and councilors; Alto, Helps, Coleman, Gudgeon & Thornton Joe by JC Scott
- March 12th, 2014 - Letter from City of Victoria alleging complaint (no one has been identified as complainant although we have requested this information on several occasions including at a meeting with Senior Planner Deb Day and City Manager Jason Jackson)
- March 13th, 2014 - Request meeting with City Manager Jason Jackson
- March 19th, 2014 - Meeting with City Manager Jason Jackson & Deb Day
- March 20th, 2014 – Review permit process at Engineering
- April 3rd, 2014 - Letter from city outlining process for resolution
- May 5th, 2014 - Letter from Mark Hayden
- May 15th, 2014 - Letter to Kevin Smitten & Amy Scoville re: Sidewalk Café Application process
- May 16th, 2014 - Letter from Stephen Stern taking responsibility for file management
- The letter from Stephen provided JC clarity on process, trying to minimize the number of non-involved staff getting drawn into the bylaw enforcement and application to amend the patio.
- May 16th, 2014 - Reply to Stephen Stern
- May 29th, 2014 - Email to city re: application process
- May 29th, 2014 - Note from Stephen Stern "I am no longer involved in the sidewalk café permit process." Not consistent with staff files – staff have advised that subsequent to receiving direction from Stephen to use him as a point of contact, JC spoke and corresponded with a number of other staff not including Stephen. Craig Stenberg clarified he sent the email advising he was not involved, after receiving a message from JC "out of the blue".
- May 30th, 2014 - Letter from Jeff Mitton thanking us for patience with the process re: natural gas heaters and noting the Patio Bylaw Revisions document This email was in response to an email JC



sent to one of Land Development staff not involved in the process; an attempt to keep the right people involved and minimize confusion. The message was to keep JC on point that he was being required to address a bylaw action; the thanks for the patience was a conciliatory response to a question regarding propane heaters not specifically part of the action.

- June 18th, 2014 - Building Permit Application BP051279 reply from city with factual errors re: application process
- June 19th, 2014 - Meeting with Senior Heritage Planner Murray Miller re: Heritage Alteration Permit
- June 19th, 2014 - Reply to city requesting meeting to clarify process
- June 19th, 2014 - Reply from Stephen Stern
- July 2nd, 2014 - Letter to Mayor Dean Fortin

Excerpt from Letter to Mike Hill & Sharon Przybysz August 12th 2010

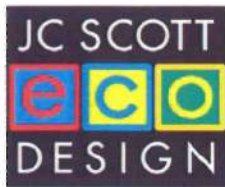
"the proposed patio enclosure at the Local Kitchen in Bastion square is both reasonable and justified in its current plan and height because of the following reasons:

1. Comparable enclosure heights throughout downtown Victoria
2. Necessary wind abatement due to the adjacency to the harbour
3. Aesthetic balance with the lookout above which is much higher
4. Season extension capacity through actual wind abatement (I'd like 84" not 64")
5. Comparison with international standards, many sidewalk cafes have tents with plastic walls
6. Economic considerations, the owners have invested considerable funds to date "

Letter to Rob Woodland March 17th 2014

Excerpts from The Local Bar & Grill Patio History:

- The patio has always complied with the City of Victoria patio regulations as condition of the lease.
- The patio has been operating without incident since 2007.
- The first city patio official on this file was Sharon Przybysz. She approved the patio. **approved plan on file**
- The owner, Jeremy Petzing started to install a glass windbreak on top of the approved railing in 2011. He was issued a stop work order under the rationale that a City of Victoria official : 'did not like it' and felt : 'it would look like a fishbowl'.
- These staff opinions are not shown in any records or correspondence nor can the guidelines used to make this determination be found in any records or regulations but the glass and metal was removed at considerable expense to the owner. The windbreak was on top of an existing approved railing and was no higher than the Victoria average glass windbreak, many in less windy locations. The owner felt he was within his rights to stop the wind for the safety, security, privacy and comfort of his patrons.
- This designer, JC Scott, was engaged in August 2010 to get approval from the City of Victoria for the windbreak. Natural gas patio heaters were included in the application and shown on the drawings and renderings which were submitted to the City of Victoria for approval.
- Approval of the glass windbreak, took two years (and when granted the windbreak was not as high as the owner wanted or the site warrants). The owner went through two summers without any windbreak while complying with the City of Victoria. There was discussion with city staff and council throughout the process.



- When the city was approached in the spring of 2013 for a decision on the application, the applicants were told that no patios could be approved in Victoria that summer until after a staff review planned for the following September. Another summer was potentially at risk.
 - We protested as strongly as possible, noting the two year delay and eventually the windbreak was approved. In April of 2013 we obtained a letter from Megan Sabell from the Victoria Fire Department expressing a preference for the type of patio heater proposed over the city approved free standing propane patio heaters. We were told a decision on heaters would not be forthcoming until September 2013. During this period under suggestion from city staff that patio policy change was political, I began researching patio policy for other municipalities and discussed both the local and patio policy in general with every councillor who I could meet.
 - It is now March 2014 and this month with patio season fast approaching, the owner installed the trellis which will support the heaters (when they are approved) as a way to expedite the process from his end, pending decisions on heaters from staff at the city. At least he can use the trellis for hanging flower baskets, climbing roses and clematis which are ordered.
 - The trellis installed has been engineered and is exactly as is shown in the patio application of 2011 which got partial approval in the spring of 2013. We will now make another application including a new Building Permit Application for the trellis and heaters in hopes that a decision can be made for this summer.
- As business 'partners' or as a simple commercial landlord tenant relationship, the undue delay and lack of approval or reasonable approval process has led to owner frustration and confusion.
- Will natural gas heaters be approved for 2014?
 - Why is the trellis which has been on all the renderings now a problem?
 - What is the appropriate process?

JC Scott



List (partial) of city contacts with whom this patio has been reviewed:

- | | | |
|-----|-----------------|--|
| 1. | Sharon Przybysz | Technical - Land Development Section |
| 2. | Jeff Mitton | Land Development |
| 3. | Michael Hill | Downtown Community Development Coordinator |
| 4. | Andrea Hudson | Downtown Area Planner |
| 5. | Alison Meyer | Assistant Director / Development |
| 6. | Kevin Smitten | Senior Technician - Land Development |
| 7. | Craig Stenberg | City of Victoria - Engineering |
| 8. | Peter Sparanese | General Manager of Operations |
| 9. | Megan Sabell | Fire Prevention Officer / Investigator |
| 10. | Greg Batters | Fire Inspector |
| 11. | Gail Stephens | Former City Manager |
| 12. | Jason Jackson | Current City Manager |
| 13. | Amy Scoville | Permits |
| 14. | Ken Kelly | DVBA |
| 15. | Steve Barber | Former Heritage Planner |
| 16. | Murray Miller | Senior Heritage Planner |
| 17. | Don Kitchen | Building Inspector |
| 18. | Councillors | Alto, Helps, Coleman, Gudgeon, Thornton-Joe, |

REPORTS OF THE COMMITTEE

10. Heritage Alteration Permit Application # 00191 for 1205 Wharf Street / Bastion Square

It was moved by Councillor Alto, seconded by Councillor Thornton-Joe, that:

1. City Council decline Heritage Alteration Permit Application # 00191 for 1205 Wharf Street/10 Bastion Square.
2. The beam be removed and the exterior wall of the Reid Block damaged by the installation be restored to the satisfaction of the Director of Sustainable Planning and Community Development.
3. Any damage to the sidewalk area caused by the installation be restored to the satisfaction of the Director of Engineering and Public Works. Carried Unanimously

5.8 Heritage Alteration Permit Application # 00191 for 1205 Wharf Street / Bastion Square

Committee received a report regarding Heritage Alteration Permit Application # 00191 for 1205 Wharf Street/10 Bastion Square. The application is to permit a timber beam that has already been attached to a Heritage-Designated building and City property as part of a sidewalk café.

The key issues associated to this application are:

- Unpermitted work
- Physical impact on the Heritage-Designated Reid Block
- Visual impact on the setting of Bastion Square
- Encroachment into the View Context of a Public Outward View

- Action:** It was moved by Councillor Isitt, seconded by Councillor Madoff, that Committee recommends:
1. That City Council decline Heritage Alteration Permit Application # 00191 for 1205 Wharf Street/10 Bastion Square.
 2. That the beam be removed and the exterior wall of the Reid Block damaged by the installation be restored to the satisfaction of the Director of Sustainable Planning and Community Development.
 3. That any damage to the sidewalk area caused by the installation be restored to the satisfaction of the Director of Engineering and Public Works.

Committee discussed:

- By allowing this proposal to proceed it would set a bad precedent, the owners are altering City owned property and there should be minimal fixturing.
- If committee had seen this application before it was built it would have been turned down. It has been constructed strictly for utility.
- Committee's job is to look at how appropriate it is as a design solution. Each change should enhance and not detract.
- In an area like this we need decisions based on the public realm. It is the wrong approach for this location and does not enhance the view.
- The area was built on public land without a permit and there is also the issue of the alteration of a heritage building. As the owners, we are the custodians of that land.

CARRIED 14/PLUC0198

For: Councillors Madoff, Gudgeon, Isitt, Thornton-Joe and Young
Against: Councillors Alto, Coleman and Helps



Planning and Land Use Committee Report For the Meeting of August 21, 2014

Date: August 7, 2014 **From:** Murray G. Miller, Senior Heritage Planner

Subject: **1205 Wharf Street/10 Bastion Square**
Heritage Alteration Permit Application #00191
Proposal to permit a beam that has already been attached to a Heritage-Designated building
Within DPA 1 (HC) - Core Historic
Zoned: CA-3C - Old Town District

Executive Summary

The purpose of this report is to present the Planning and Land Use Committee with information, analysis and recommendations regarding a Heritage Alteration Permit Application to permit a timber beam that has already been attached to a Heritage-Designated building as part of a sidewalk café.

The key issues associated with this application are:

- unpermitted work
- physical impact on the Heritage-Designated Reid Block
- visual impact on the setting of Bastion Square
- encroachment into the View Context of a Public Outward View.

Consistency of the proposed work with City policy was considered in assessing this application.

The application was reviewed by the Heritage Advisory Panel at its July 8, 2014 meeting and it was recommended that City Council authorize the issuance of the Heritage Alteration Permit subject to conditions.

Staff recommend that the application be declined because the unpermitted work encroaches into a key Public Outward View and results in considerable visual impacts on the setting of Bastion Square.

Recommendations

1. That City Council decline Heritage Alteration Permit Application #00191 for 1205 Wharf Street/10 Bastion Square.
2. That the beam be removed and that the exterior wall of the Reid Block damaged by the installation be restored to the satisfaction of the Director of Sustainable Planning and Community Development.

3. That any damage to the sidewalk area caused by the installation be restored to the satisfaction of the Director of Engineering and Public Works.

Respectfully submitted,



Murray G. Miller
Senior Heritage Planner
Community Planning Division

Alt.



Deb Day
Director
Sustainable Planning and
Community Development Department

Report accepted and recommended by the City Manager: _____
Jason Johnson

Date: _____

MGM/ljm

S:\TEMPEST_ATTACHMENTS\PROSPERO\PL\HAPI\HAP00191\HAPL REPORT_1205 WHARF.DOC

1.0 Purpose

The purpose of this report is to present the Planning and Land Use Committee with information, analysis and recommendations regarding a Heritage Alteration Permit (HAP) Application to permit a timber beam that has already been attached to a Heritage-Designated building.

2.0 Background

In early March 2014, the City's Bylaw and Licensing Services Division received a formal complaint regarding unpermitted construction of a large elevated wooden beam within the outdoor patio area occupied by the Local Bar and Grill. The City has been working with the applicant to encourage voluntary compliance, triggering the submission of a Sidewalk Café Application, Building Permit Application and a follow up Heritage Alteration Permit Application on June 20, 2014.

2.1 Description of Proposal

This proposal is to add structural supports, flower baskets and four beam-mounted space heaters to a timber beam, which has already been attached to the Heritage-Designated Reid Block.

2.2 Consistency with City Policy

2.2.1 Official Community Plan (OCP)

Depending on the particular viewpoint location of a person in the standing position, the constructed beam would continue to maintain views from Bastion Square to the Inner Harbour, across the water to the Core Songhees area as identified in guidelines for the Downtown Core Area (Harbour and Waterfront Policy 8.16). However, there are a number of locations where the viewpoint could be from a seated position including the plaza overlooking Wharf Street (depicted in photographs attached to this report), which is a key public seating area within Bastion Square. In this regard, the constructed beam would appear within the view range and would not fully maintain those public views from Bastion Square to the Inner Harbour.

2.2.2 Downtown Core Area Plan (DCAP)

Public Outward View - Policies

The DCAP requires an evaluation of development proposals that are located along or within the view corridors illustrated in Map 21 for consistency with the Outward View Guidelines contained in Appendix 1. In relation to Public Outward View 1, the location, siting and design of the beam would not maintain the view as seen from the identified public vantage point.

Outdoor Dining Areas

The DCAP includes guidelines that encourage outdoor dining areas on public or private property that integrate with building designs and adjacent sidewalks. The extension of private outdoor dining areas into the public realm is considered a means of contributing to the vitality of public space. The guidelines also encourage the use of decorative elements to delineate dining areas that are low in height (such as fencing, planters, landscaping, etc.). Given the impact to the adjacent public seating area and to the character of Bastion Square, the patio design as installed does not result in enhancement of the public space.

2.3 Review by Heritage Advisory Panel

The application was reviewed by the Heritage Advisory Panel at its July 8, 2014 meeting and it was recommended that City Council authorize the issuance of Heritage Alteration Permit #00191, subject to the following conditions being met prior to the issuance of any permits:

1. That the proposed work be limited to structural bracing of the existing beam and the four beam-mounted space heaters.
2. That the applicant provide a dimensioned survey of the lands showing the extent of encroachment of the constructed beam onto City of Victoria property.
3. That the applicant provide a rendering to the City, depicting the full scope of work outlined in the application.
4. That the proposed braces be shown on the patio plan in relation to the posts that they are intended to brace.
5. That the applicant provides specifications to the City for the beam-mounted surface heaters.

3.0 Issues

The key issues associated with this application are:

- unpermitted work
- physical impact on the Heritage-Designated Reid Block
- visual impact on the setting of Bastion Square
- encroachment into the View Context of a Public Outward View.

4.0 Analysis

Statements of Significance for Bastion Square and the Reid Block are provided as attachments to this report.

5.0 Discussion

5.1 Unpermitted Work

The constructed beam was erected over two lots, one of which is owned by the City of Victoria. While there are circumstances where the City permits the encroachment of temporary construction onto public lands, this particular beam and support structure was constructed without required permits.

5.2 Physical Impact on the Reid Block

The physical impact is limited to fixing holes required to support the beam at the face of the exterior wall of the Heritage-Designated Reid Block. While drilling through the stucco and into the masonry represents a non-reversible change, it is considered that the physical impact would be minor.

5.3 Visual Impact on the Setting of Bastion Square

The visual impact on the setting of Bastion Square varies as one moves around the Square and also from Wharf Street looking eastward. The length, design and location of the timber beam emphasize its prominence as an uncharacteristic element within the setting of Bastion Square. In addition to being uncharacteristic, the length and location of the beam impacts the setting of Bastion Square by obscuring views from Wharf Street and contributes to visual clutter. In this regard, the visual impact is considerable.

5.4 Encroachment into the View Context of a Public Outward View

The extent to which the constructed beam encroaches into important public views depends on the position of the viewer. From a seated position in an area designated for public seating, the encroachment is notable. This public seating area is a key element within the overall urban design of Bastion Square and is one of the few spaces that people can sit within Bastion Square and appreciate a key public view. Since the review of the application by the Heritage Advisory Panel, the installation of hanging and top-mounted flower baskets, while character-defining of Victoria, encroach further into the key public view and on the setting of Bastion Square (see photographs dated August 7, 2014).

6.0 Conclusions

Bastion Square is the site of the original Fort Victoria, making it one of the most important heritage areas in Victoria within the Old Town Heritage Conservation Area. In circumstances where important public views cannot be fully maintained, new development should not detract from the quality of the existing view. In this case, the existing and proposed development would not only detract from the quality of a key public view, but it would also encroach considerably on the setting of Bastion Square as viewed from Wharf Street.

In many circumstances, staff are provided with design concepts on proposed developments for comment. Had this design been brought to staff prior to construction, staff would have worked with the applicant to address key areas of impact prior to a formal application being submitted. In this instance, while the work had already been completed, staff had advised the applicant that they were available to work with them on an alternate solution but that was not pursued by the applicant. Given the foregoing, staff recommend that the application be declined.

7.0 Staff Recommendations

1. That Council decline Heritage Alteration Permit Application #00191 for 1205 Wharf Street/10 Bastion Square.
2. That the beam be removed and that the exterior wall of the Reid Block damaged by the installation be restored to the satisfaction of the Director of Sustainable Planning and Community Development.
3. That any damage to the sidewalk area caused by the installation be restored to the satisfaction of the Director of Engineering and Public Works.

8.0 Alternate Recommendations

Option 1

1. That Council direct staff to work with the applicant to mitigate the adverse effects of the constructed works to the satisfaction of the Director of Sustainable Planning and Community Development.
2. Subject to condition 1 above, that Council consider authorizing the issuance of Heritage Alteration Permit #00191 for 1205 Wharf Street/10 Bastion Square, subject to:
 - a. Development meeting all *Zoning Regulation Bylaw* requirements; and
 - b. Final plans and specifications to be provided to the City to the satisfaction of the Director of Sustainable Planning and Community Development.

Option 2

That Council consider authorizing the issuance of Heritage Alteration Permit #00191, subject to the following conditions:

- a. That the applicant provides a rendering to the City, depicting the full scope of work outlined in the application.
- b. That the proposed braces be shown on the patio plan in relation to the posts that they are intended to brace.
- c. That the applicant provides specifications to the City for the beam-mounted surface heaters.

9.0 List of Attachments

- Subject map
- Aerial map
- Photographs (pre-July 8, 2014)
- Photographs (August 7, 2014)
- Letter from applicant, dated July 3, 2014
- Drawings and structural details, dated June 20, 2014
- Statements of Significance for Bastion Square and the Reid Block.



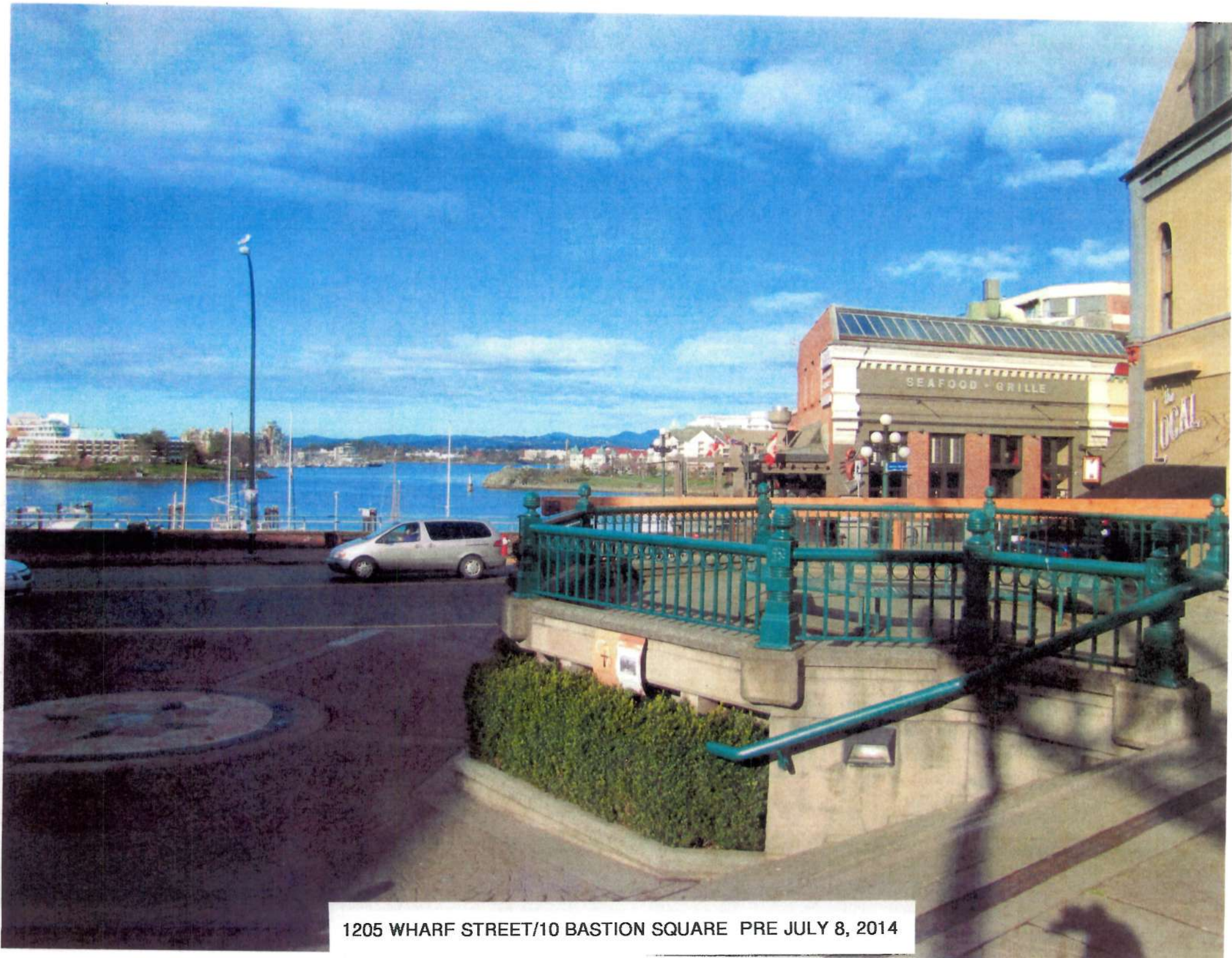
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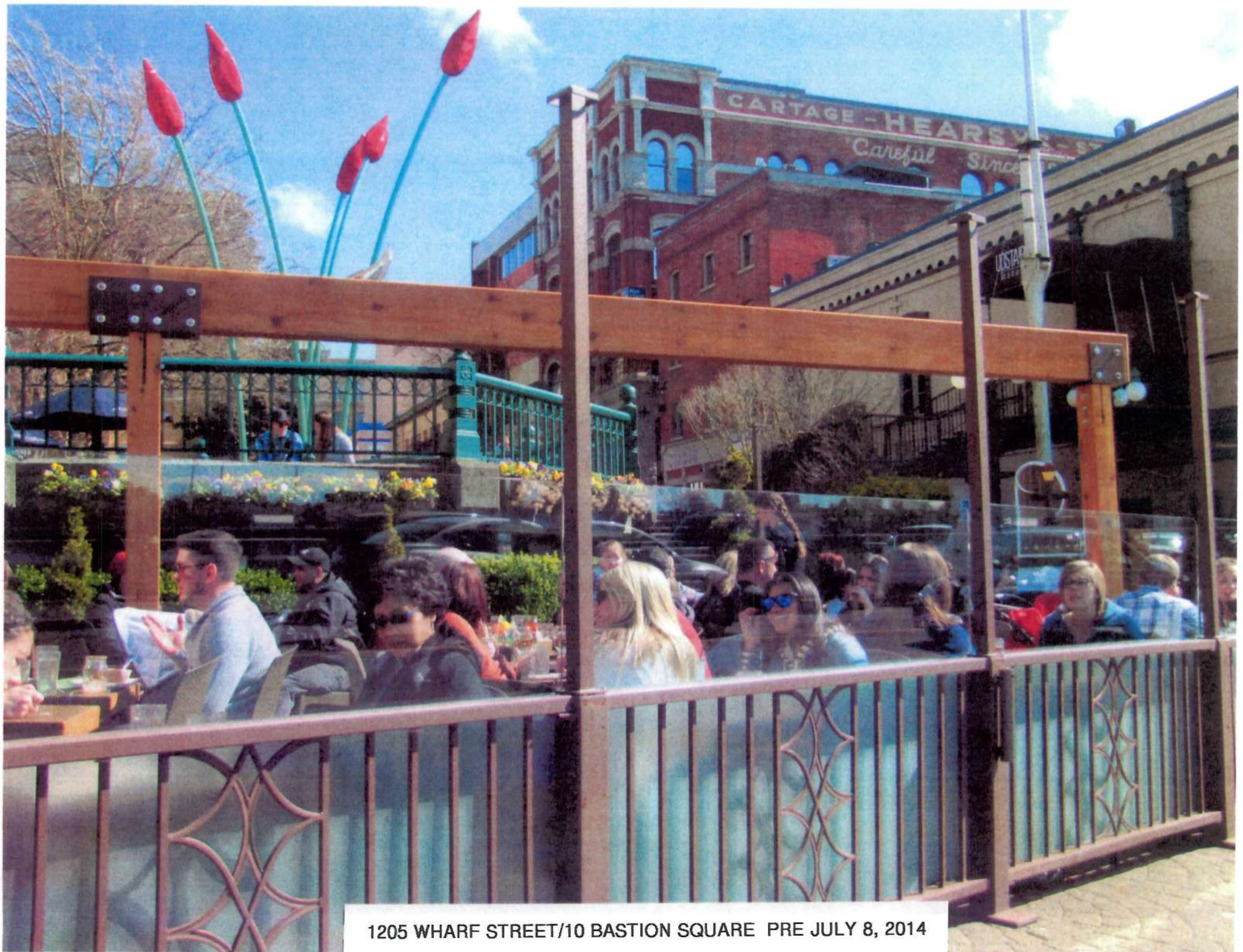
1205 WHARF STREET/10 BASTION SQUARE PRE JULY 8, 2014



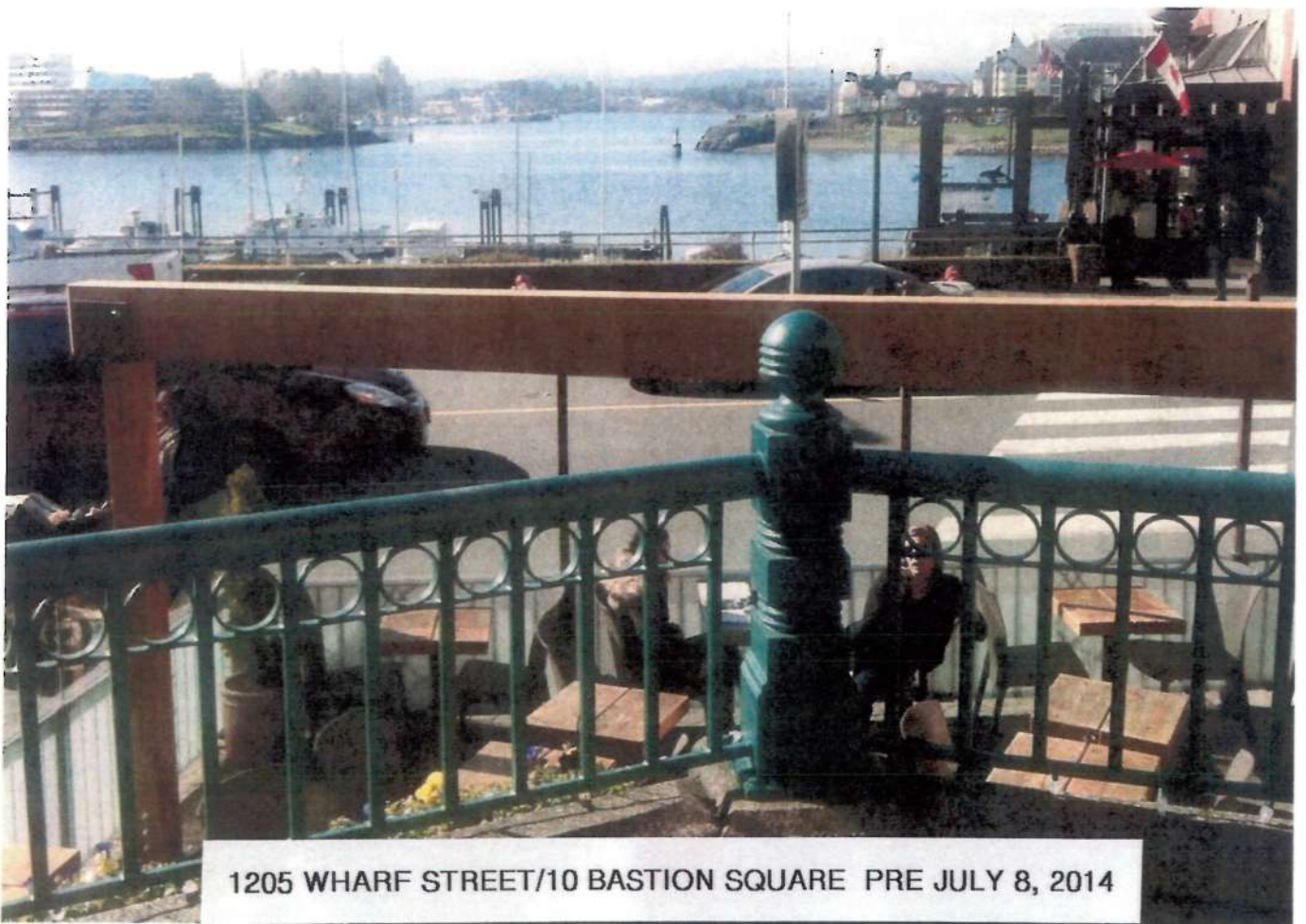
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1205 WHARF STREET/10 BASTION SQUARE PRE JULY 8, 2014



1205 WHARF STREET/10 BASTION SQUARE PRE JULY 8, 2014



1205 WHARF STREET/10 BASTION SQUARE PRE JULY 8, 2014

View 1: HARBOUR VIEW FROM BASTION SQUARE



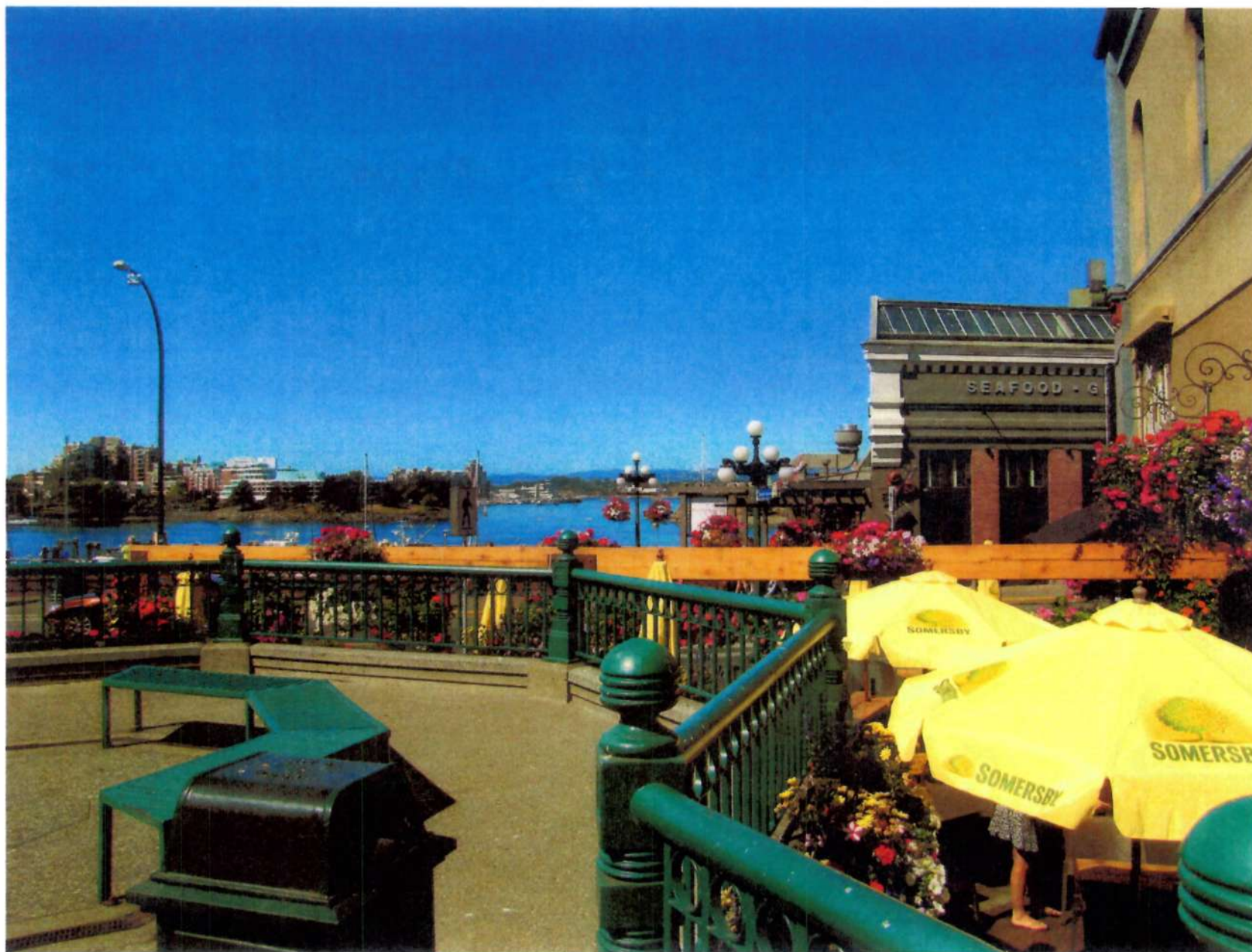
Looking west from Bastion Square

Character-Defining Elements:

- A. Laurel Point
- B. Inner Harbour Entrance
- C. Songhees Point



View from a seated position showing the relationship between the beam and the character-defining elements within View 1 (DCAP), without hanging baskets and beam-mounted heaters



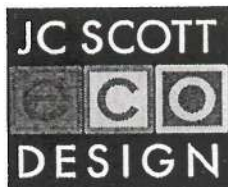
1205 Wharf Street/10 Bastion Square - August 7, 2014



1205 Wharf Street/10 Bastion Square - August 7, 2014



1205 Wharf Street/10 Bastion Square - August 7, 2014



Mayor Dean Fortin & Council
City of Victoria
1 Centennial Square,
Victoria BC

02 July, 2014

Re: The Local Patio, Building Permit Application BP051279
Heritage Alteration Permit, 1205 Wharf Street, Victoria BC

At the request of the Planning Department, I have been asked today to write an updated synopsis of the patio and related heater trellis at Bastion Square for your review. Many of you on council are already intimately aware with this issue and I believe that all of you have been made aware in some way with The Local Patio at one time or another over the last three years.

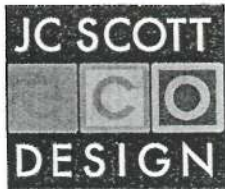
My client, Jeremy Petzing, of Brownco Holdings Inc., dba The Local, has always acted with the intention of compliance in good standing with the City of Victoria with regard to the leased patio space in Bastion Square which adjoins his restaurant. We are currently in what we hope are the final stages of a Patio Permit Application that was begun in 2011 and which has been refreshed this year as Building Permit Application BP051279 which has initiated a Heritage Alteration Permit with associated fees and process steps.

There is an attached rendering showing the intended trellis and patio heaters from 2011. This rendering has been on file with the city for well over three years. Patio and sidewalk cafes are primarily a seasonal business unless they are enclosed by tents in cities like Vancouver or with a structure like Swan's Greenhouse, or in cities like Paris, with large retractable awnings and windbreaks which are used to extend the season.

Throughout the industry, patio heaters are becoming not just normal but necessary and whereas in the 1980's, free-standing propane heaters were the norm; today 'plumbed-in' natural gas is the industry standard for reasons of safety and energy efficiency. Some operators use overhead wired in electric patio heaters.

We have an attached letter from the Victoria Fire Department which supports the natural gas model partly because propane is heavier than air so it can accumulate and explode but natural gas is lighter than air so it rises and cannot create catastrophic failure. Natural gas which we hope to use is also much more energy efficient.

The owner, fully expecting approval by this spring (because of promises made last spring, 2013 that patios were to be reviewed by city staff last September, 2013) has installed the trellis as per his and my understanding from the city that it was at the agreed height so as not to block sight-lines from the Bastion Square "lookout". It was built to specifications and



drawings from the structural P.Eng's RJC and we are now awaiting approval of the natural gas heaters.

Many years ago, I was the artist/ designer selected by the city through open competition to redesign Bastion Square; it is my compass design and my entry gate design at Government Street. I note these facts simply because I want to point out that am intimately aware of the aesthetics of Bastion Square, and I care about this important public space. I am a graduate architectural historian, and heritage is important to me, especially when, through adaptive re-use, heritage can be revitalized and made more functional.

I believe that the timber trellis perfectly suits the heritage of Bastion Square; BC was largely built with timber and wood and although the buildings of Bastion Square are clad in brick and masonry, virtually all of the older buildings there have timber frame structures.

The timber trellis also complements the exposed timberwork on the decks and stairs across the street on the harbour side of Wharf Street. Finally a timber trellis is much more attractive and heritage compliant than a metal armature (as has been used elsewhere in Bastion square) to support the preferred natural gas heaters. We hope to resolve this issue as soon as possible.

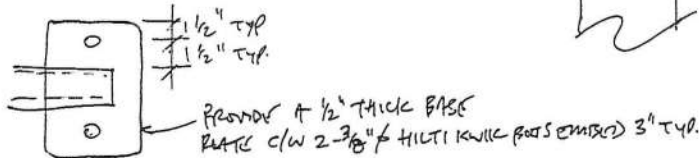
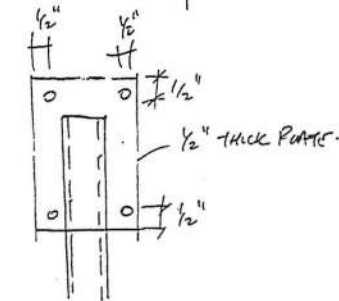
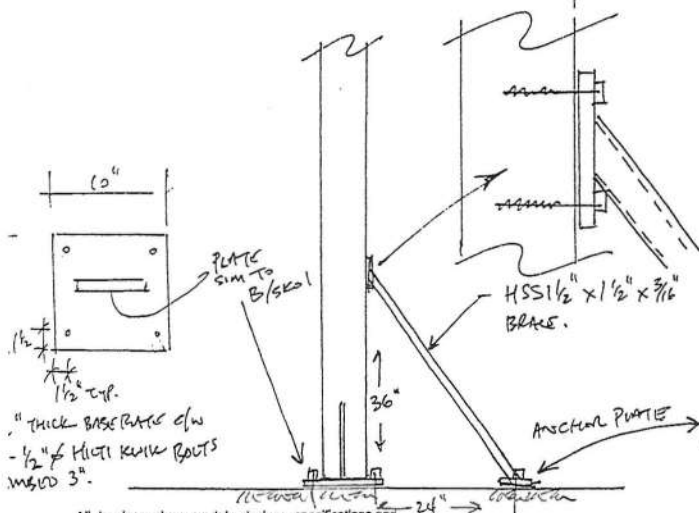
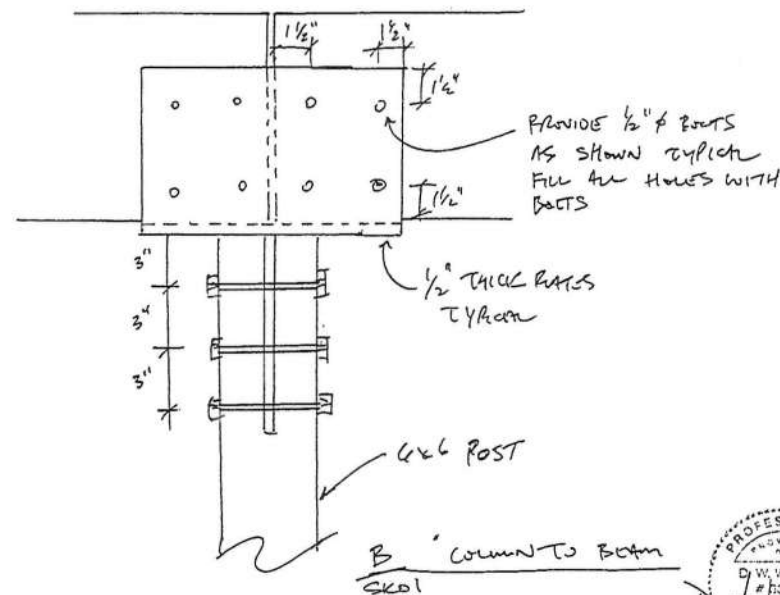
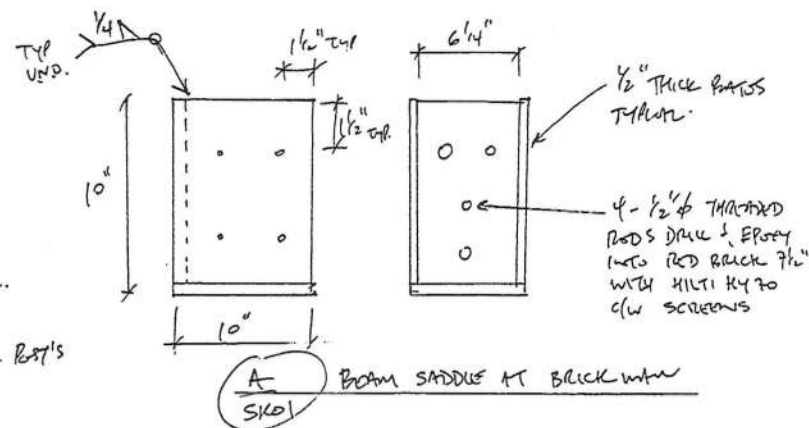
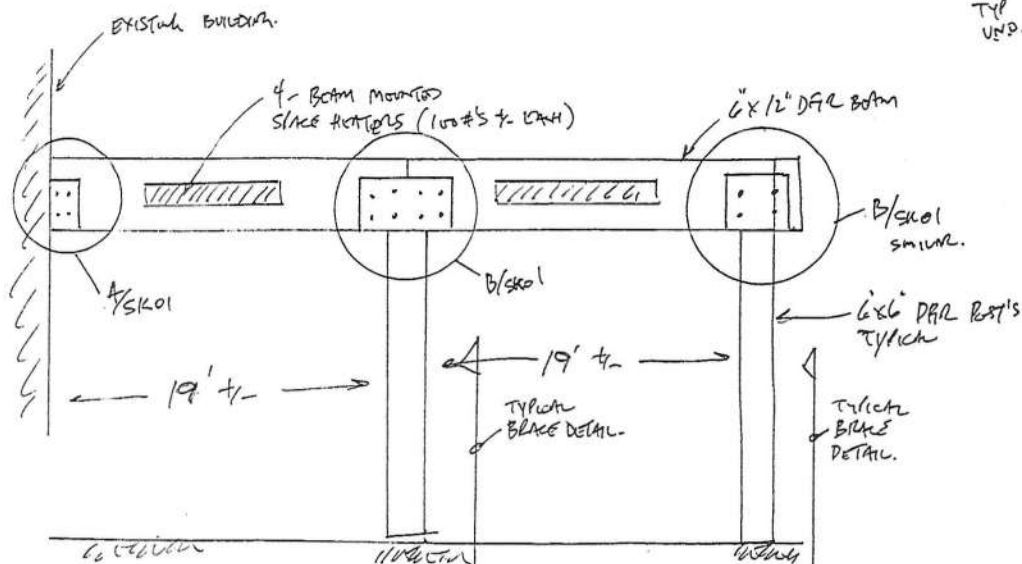
Yours truly,

JC Scott

A handwritten signature in black ink, appearing to be "JC Scott", written in a cursive, stylized script.

cc:

Murray Miller;
Deborah Day;
Robert Woodland;
Jason Johnson;
Stephen Stern;
Kevin Smitten;
Jeff Mitton;
Don Kitchen;
Mark Hayden;
Ken Kelley;
Jeremy Petzing;
Greg Harney;



All drawings, plans, models, designs, specifications and other documents prepared by Read Jones Christoffersen Ltd. ("RJCL") and used in connection with this project are instruments of service for the work shown in them (the "Work") and as such are and remain the property of RJCL whether the Work is executed or not, and RJCL reserves the copyright in them and in the Work executed from them, and they shall not be used for any other work or project.

Received
City of Victoria

JUN 20 2014

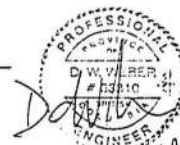
Planning & Development Department
Development Services Division

No.	Revision	Date	By
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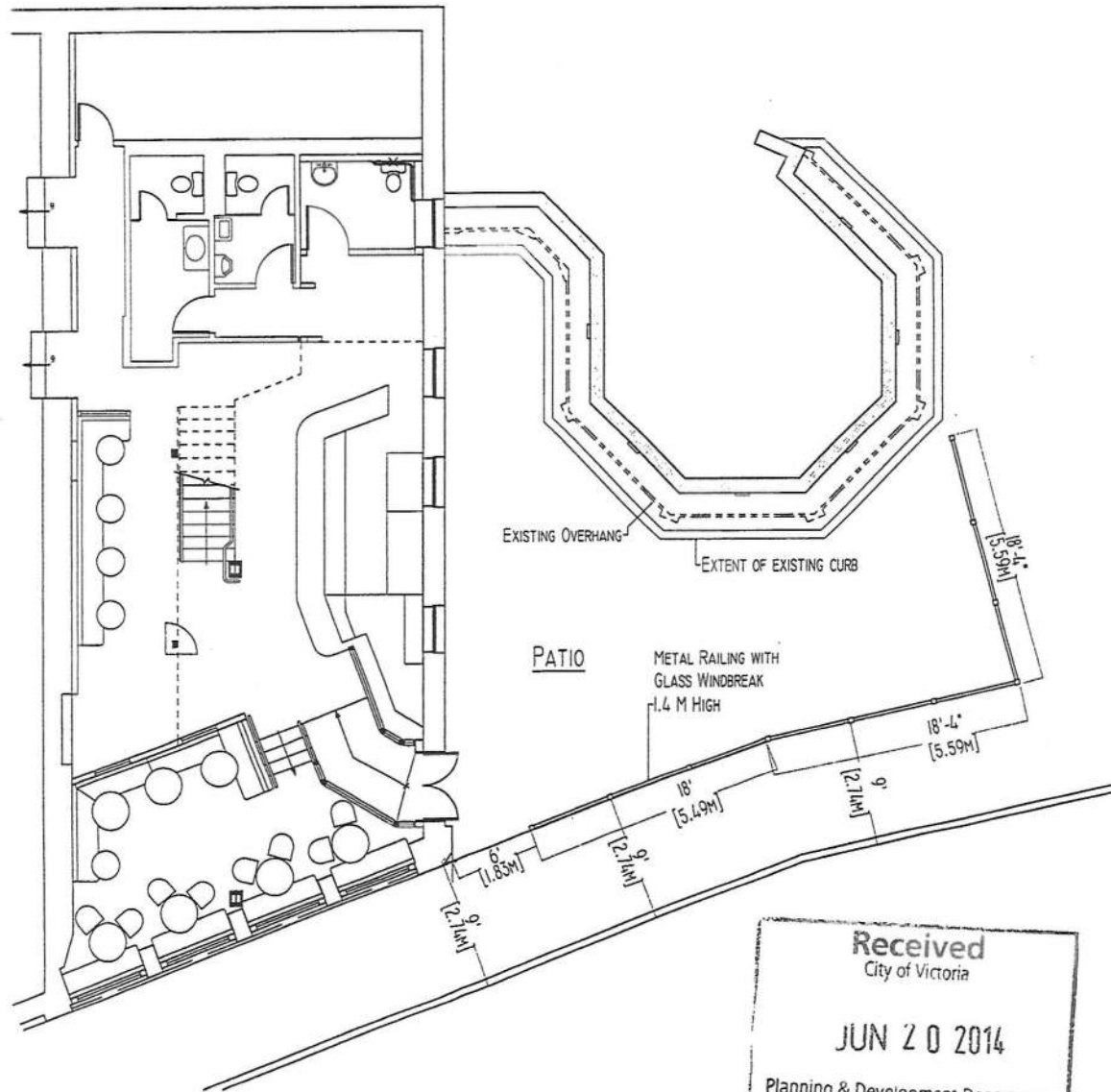
rjc Read Jones Christoffersen
Consulting Engineers
Suite 220, 645 Tye Road
Victoria, BC V9A 6X5 Canada
Office 250 386-7794 Fax 250 381-7900
www.rjc.ca

Project Name
THE LOCAL KITCHEN - 1205 WHARF ST.
Sketch Title
TRELLIS DESIGN

Drawn By DWW
Scale NTS
Date MARCH 12, 2014
Project No. VIC.110655.0001
Sketch Number Rev.
SKO1



THE LOCAL: PATIO PLAN
SCALE 1:100



DISCLAIMER:
It is the responsibility of the contractor to check and confirm all drawings, details and specifications prior to the commencement of any work and report any and all errors, omissions and discrepancies to the designer. In addition, all measurements must be confirmed on site.

Revisions

JC Scott ECO Design
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PROJECT
THE LOCAL
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PATIO PLAN
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SCALE
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DRAWING #

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City of Victoria

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Planning & Development Department
Development Services Division

Statements of Significance

Bastion Square - Description, Heritage Value and Character-Defining Elements

Description

Bastion Square is an historic urban space, located in the heart of Victoria's Old Town National Historic Site. It is comprised of a two-block pedestrian mall, of irregular configuration, enclosed by street walls of late-nineteenth and early-twentieth century historic masonry buildings between two and four storeys in height. From its widest point, facing Wharf Street, it rises to the east up a steep slope then narrows and levels off, crosses Langley Street, then rises again until it reaches its narrowest, eastern point on Government Street. Other walkways and service spaces connect Bastion Square to a network of pedestrian walkways, a key characteristic of Old Town's urban pattern. Bastion Square has evolved as a ceremonial and public space that physically and visually links Old Town, Government Street and the Inner Harbour.

Heritage Value

Bastion Square, as a public open space enclosed by an historic grouping of late Victorian and Edwardian-era buildings, is of heritage value for its physical links to the earliest development of Victoria's Old Town National Historic Site.

Character-Defining Elements

Key elements that define the heritage character of Bastion Square include its:

- Location in the heart of the Old Town National Historic Site, connecting the waterfront and the commercial core
- Ongoing use as public open space, incorporating a mix of private and public activities, heritage plaques, historic commemoration and public art
- Funnel-shaped physical form that rises and narrows from west to east, enclosed by two to four-storey high street walls
- Surrounding ensemble of late-nineteenth and early-twentieth century historic masonry buildings, including the Law Courts National Historic Site
- Connections to the network of secondary pedestrian walkways and service spaces that are characteristic of Old Town's historic urban pattern
- Constructed elements from the 1960s and 1993 revitalizations, including different plaza levels connected by stairs and ramps, public realm improvements such as planters and benches, and decorative lighting.

Reid Block - Description, Heritage Value and Character-Defining Elements

Description

Reid Block is a large, three-storey commercial building situated on Wharf Street, at the northwest corner of Bastion Square facing the Inner Harbour waterway. Constructed in 1862-1863, it is characterized by its mansard-roofed third floor, small arched upper-storey windows and lack of decorative architectural elements.

Heritage Value

The Reid Block is valued for the contribution it makes to the continuity of the east side of Wharf Street and as an early example of heritage building rehabilitation in Victoria.

The physical value of this building lies in its mass and form, and in its relationship to both Wharf Street and Bastion Square. Its long, five-bay façade fronting Wharf Street upholds the continuity of the street wall, a key characteristic of this unique commercial thoroughfare. Together with its contiguous neighbours and the nearby collection of historic buildings on the other side of Bastion Square, the Reid Block illustrates the integrity of this part of the Inner Harbour Precinct as the critical link between shipping in the Inner Harbour and commercial endeavours on land.

Furthermore, the significance of the relationship of this building to Bastion Square adds to its value, as it is representative of the role of downtown revitalization and rehabilitation in preserving Victoria's unique heritage character and historic streetscapes.

Character-Defining Elements

The character-defining elements of the Reid Block include:

- Its prominent corner location, marking the western entrance to Bastion Square
- Its physical relationship to both Wharf Street and Bastion Square
- Its three-storey height
- The contribution it makes, by way of its massing and overall design, to the continuity of the commercial streetscape on the eastern side of Wharf Street
- Surviving elements of its 1862-1863 construction, such as window and door openings on the ground floor and second storey, brick elements of exterior façades (now covered by stucco), cast-iron structural elements, upper-storey double-hung wooden-sash windows and pilasters
- Major elements of its 1979 rehabilitation, including the third-storey mansard addition.



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April 3, 2013

Mr. Scott

**Fire
Department**

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Fire Prevention

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Re: Heater options for outdoor patios.

As discussed in our meeting of March 5, 2013 it is the opinion of the Victoria Fire Prevention Office that approved and properly installed natural gas heaters would be a safer alternative to using free-standing propane heaters.

I understand that there is currently a City of Victoria Bylaw titled the Sidewalk Cafés Regulation – No 02-75 whereby “free-standing propane heaters” are the only heaters allowed to be in use on sidewalk cafés, and you are looking to petition the City of Victoria for a variance that would allow you to install a safer, semi-permanent alternative.

I support your initiative for a number of reasons, the main one being safety. As opposed to natural gas, the nature of propane causes it to sink and potentially accumulate which would increase the risk of possible explosion. Natural gas, being lighter than air, would rise away and eventually dissipate. The system you have proposed would be connected to the existing gas lines with a safety shut off valve which would be safer in the event of an incident on the patio or with the appliance itself. Lastly, with having a plumbed natural gas line to the heaters, there will not be the need to store volumes of 20 pound propane tanks on the property which may be susceptible to mischief, and would pose a higher danger to fire suppression members as well as the public in the event of a fire at this location.

Thank you for your commitment to safety.


Megan Sabell
Fire Prevention Officer