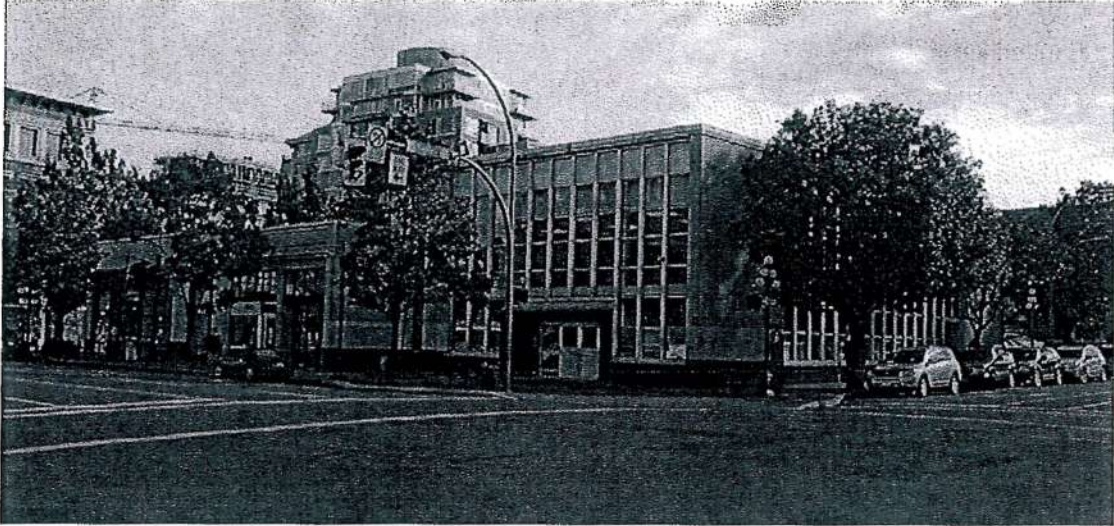


SCHEDULE "E"



HERITAGE BUILDING REPORT
1501 DOUGLAS STREET, VICTORIA, BC

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1. INTRODUCTION

Jawl Enterprises Limited (JEL) is the owner of the lands municipally described as 1501 Douglas Street, 1509-1517 Douglas Street, and 750 Pandora Avenue and legally described as Lot 1 of Lots 1247, 1248 and 1257, Victoria City, Plan EPP27886 (the "Site") in Downtown Victoria. The Site is currently the subject of an application by JEL for the creation of a New Comprehensive Development Zone and a Development Permit to facilitate the comprehensive redevelopment of the Site as a mixed commercial office complex (the "Development Proposal" or the "Project"). The Site area totals 5,570 m² (59,955 square feet) and it is currently used for surface parking as well as commercial uses in the existing buildings along the Douglas Street frontage. To facilitate the Development Proposal, it is required to remove all existing improvements currently located on the Site including the existing structures and the surface parking lots.

One of the existing structures, the former Royal Bank branch located at 1501 Douglas Street, was added to the City of Victoria Heritage Register in 2007 as an example of postwar modern architecture. Accordingly, its proposed demolition requires special consideration in the context of the Development Proposal. Over the course of the last two years numerous development concepts were evaluated by the design team which incorporated the 1501 Douglas Street into the new development; however none were deemed viable or conducive to an optimized architectural and urban design solution. This report examines the rationale for the removal of the existing building at 1501 Douglas Street in the context of facilitating the anticipated civic benefits which will result from the Development Proposal and presents steps that will be taken to mitigate the loss of heritage value.

2. HERITAGE REGISTER

The stated purpose of the Heritage Register is to identify buildings that exhibit heritage value. According to the City of Victoria "a Heritage Register property is officially listed in the Register because it may have sufficient heritage value to warrant preservation actions by the City in the future. Heritage register status does not give any formal protection to a site and is not the same as heritage designation. The register provides a system to review and monitor proposed changes to properties of heritage value".

Between 2006 and 2007 the City of Victoria identified a list of eight buildings that exhibited postwar modernist design and recommended them for inclusion on the Heritage Register. This list included the Odeon Theatre, the BC Electric Company Building, the City Brokerage, the Post Office & Federal Building, the City Hall Annex, the Bentall Building, the Bank of Toronto, and Ballantyne's Florist Building. Following the compilation of this original list, three more buildings were nominated for inclusion on the Heritage Register including 1501 Douglas Street. This brought the total number of postwar modernist buildings nominated for and ultimately included on the Heritage Register to eleven. The Committee of the Whole Report dated November 1, 2007 pertaining to these additions to the Heritage Register is included as Appendix A and the City of Victoria's Statement of Significance for 1501 Douglas Street is included as Appendix B.

According to City of Victoria policy, inclusion of a property on the Heritage Register does not automatically warrant Heritage Designation, nor does it provide the impetus for preservation. Applications to remove structures named on the Heritage Register can be referred to City Council and the Heritage Advisory Committee for consideration. To that end, this document forms part of the application for a New Comprehensive Development Zone and a Development Permit in connection with the Development Proposal.

3. POSTWAR MODERNISM IN VICTORIA

To frame the discussion surrounding the existing building at 1501 Douglas Street, JEL engaged Donald Luxton & Associates to conduct an evaluation of 1501 Douglas Street's heritage elements as well as its context within the inventory of postwar modernist buildings in Victoria, BC. The balance of Section 3 is the independent reporting of Donald Luxton & Associates.

3.1 Historic Context

After the conclusion of World War II, North America began to settle into a prolonged period of relative peace and economic prosperity. As a wartime defense centre and Canada's major west coast naval port, Victoria especially was affected by the demobilization of thousands upon thousands of troops, returning from overseas duty. The once sleepy Victoria grew rapidly, and the city's population more than doubled between 1946 and 1966. In addition to the returning veterans, a pent-up demand for cheap housing, the baby boom, ready availability of automobiles, improved ferry access to the mainland, and new consumer confidence also contributed to the unprecedented growth of the city. Through the postwar period, large tracts of suburban housing were built across the region, turning downtown Victoria into an increasingly important urban core. Within this new urban context, there was a widespread acceptance of modernist architecture. Easy to build, inexpensive, economical of scarce materials and expressive of new technology, this new type of construction discarded traditional architectural styles and provided the means to re-conceive the city in a response to current social, political and economic conditions.

The legacy of postwar modernist architecture in Victoria is distinctly different from that of Vancouver. The differences arise in two key areas, first in the careful integration of the city's historic building stock within the urban context and the subsequent rise of the heritage preservation movement, as well as the development of highly idiosyncratic variations on modernism by several key architects. Victoria has long been characterized by an expectation of social conservatism. The seat of government and the military, cut-off from the mainstream of commercial activity, and perceived as a retirement community, Victoria could be considered a surprising place to find an effective and intellectual response to the postwar global trends in modern architecture. In most major North American cities, modernism was coupled with contempt for historic buildings, which were perceived as something to be swept away rather than valued. In Victoria, the introduction of modernism was characterized by a period of transition between the traditional, British ideas of architecture and a determination to rejuvenate and modernize the city. Here, a careful balance was achieved between traditionalism and modernism that in retrospect was far ahead of its time, and a model for current thoughts about sustainability.

As the city grew, new services had to be provided. Banks, hospital and schools had to be constructed rapidly in the first few years after the end of the War. There was initially a conservative architectural response. As illustrated by Victoria's Main Post Office and Federal Building, the first large-scale projects were reluctant to shed the Stripped Classicism of the 1930s, and hedged their bets against which way the new modernism would develop. Banks were notoriously reluctant to embrace modernism, but within a few years cautiously began to accept a new more progressive look as an appropriate business image. The Royal Bank Building at 1501 Douglas Street was constructed in 1955. The new, modern image displayed by the International Style bank building is in stark contrast to the nineteenth-century Victoria City Hall, located directly across Douglas Street. The bank building is more closely related to the modern aesthetic expressed at the civic Centennial Square development (1963-1965), the city's first major urban redevelopment project.

3.2 Royal Bank Building Features

The Modern, International Style design of the one-storey Royal Bank Building predominately features aluminum curtain walls, walls faced in Haddington Island andesite, and a black polished granite base that wraps around the building. The front façade features an aluminum window grid above the recessed entrance, which is surrounded by Verdi Onicate (green flecked black) marble.

There is also a vertical window band on the north end of the front elevation. The Pandora Avenue elevation of the building features an aluminum window grid in the centre of the façade, bookmarked on either side by the andesite cladding. The rear elevation also features an aluminum window grid, bookmarked by brick cladding. The building's alternating pattern of aluminum windows and stone cladding is a defining feature of the building, which illustrates the simple and sleek Modernist style.

3.3 Comparative Analysis

The Royal Bank Building at 1501 Douglas Street was constructed amongst the backdrop of Victoria's postwar economic expansion. As such, there are numerous commercial and civic building contemporaries that compare to the Royal Bank Building. The following buildings are some of the landmarks that characterize and define Victoria's significant postwar modernism aesthetic.



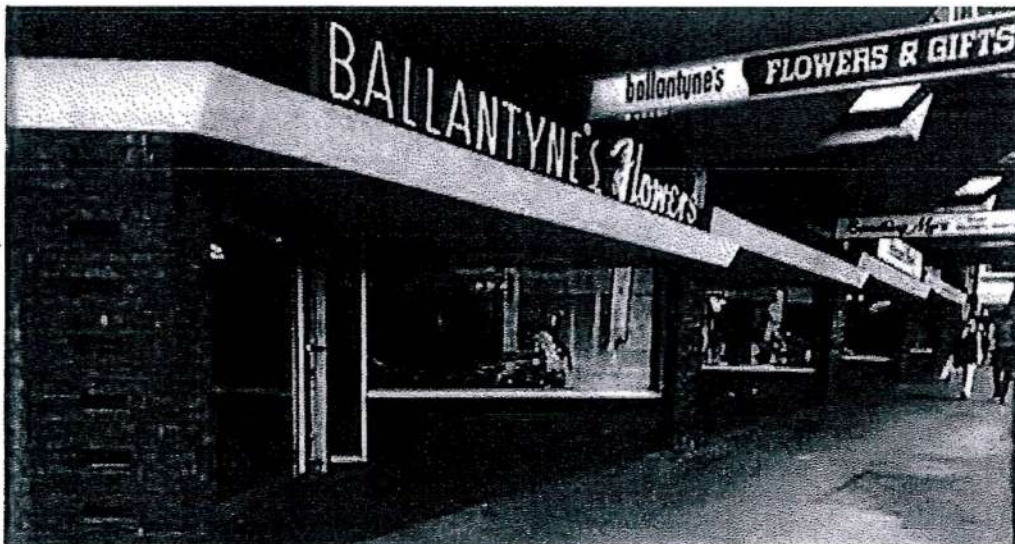
Odeon Theatre (1946-48), 780 Yates Street

One of Victoria's best examples of the Streamline Moderne style, the Odeon Theatre at 780 Yates Street is cleverly dramatized by an asymmetrical scooped false-front, and projecting curved canopy, both transixed by the vertical Odeon neon signpost, which signals the foyer entrance. The curved and sweeping lines of the building represent a defining and early expression of Victoria's postwar modernism movement.



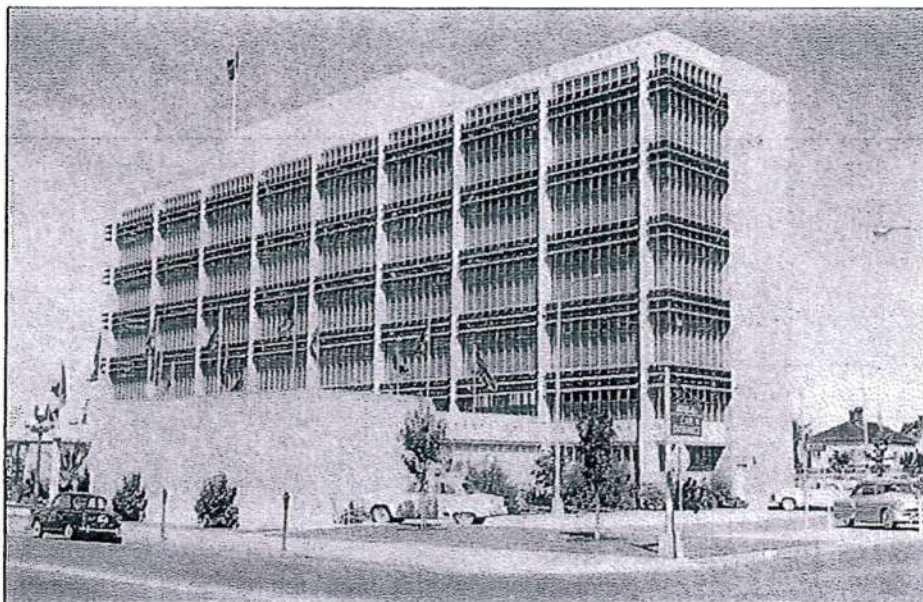
Bank of Toronto (1951), 630 Yates Street

Regarded as Victoria's best example of a Moderne style bank, the design of the Bank of Toronto building at 630 Yates Street was stripped of all Classical references, and its aesthetic looks forward to the International Style. Cast-stone panels face the building above its black marble base and the same marble defines the two-storey inset window panels. The Royal Bank Building on Douglas Street features a similar material palette to the Bank of Toronto Building. The splayed corner entrance is a traditional Victoria banking-hall feature and the bank's corporate crest is proudly displayed above the door.



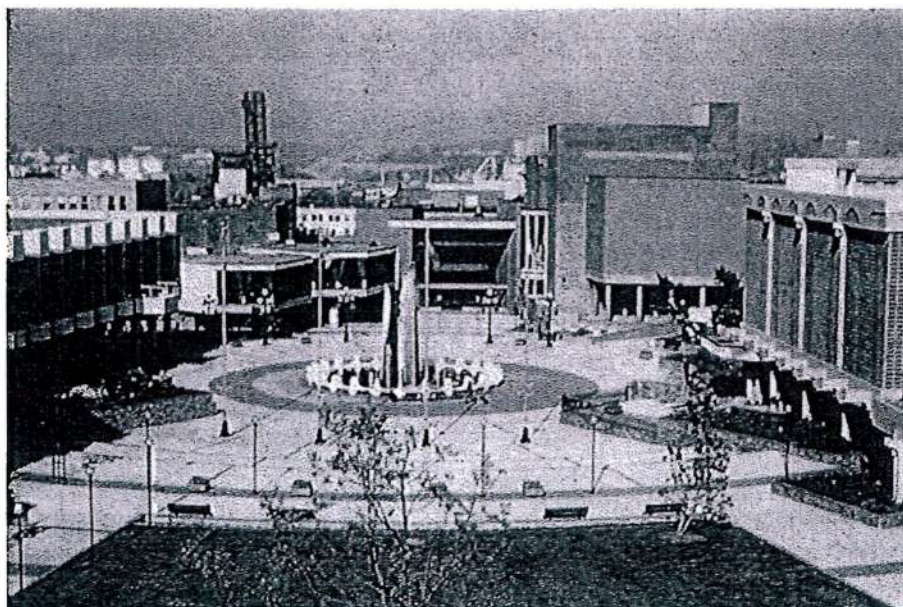
Ballantyne's Florists (1954), 912 Douglas Street

The angular entrance bays and complex geometry of the constructivist canopies of the Ballantyne's Florists building illustrate the sophisticated abstract designs executed by architect John Di Castri, who helped break Victoria's traditional mould of Romantic Historicism. The one-storey commercial building is representative of the leading-edge of postwar retail design.



The B.C. Electric Company Building (1955), 1515 Blanshard Street

This was the first large-scale Modernist building in Victoria, and a significant early example of Modernist architecture in western Canada. Completed in 1955, it was conceived as the Vancouver Island headquarters and showpiece of the B.C. Electric Company, which at the time was the province's dominant private-sector utility. The B.C. Electric Company Building was significant as a milestone in the careers of its architects, Sharp and Thompson, Berwick, Pratt. It provided their first major opportunity to experiment with new methods in curtain wall technology, preparing the firm for its commission of the company's larger Vancouver headquarters just two years later.



Centennial Square (1963-65), Pandora Avenue

The civic Centennial Square complex, located across Douglas Street from the Royal Bank Building, is recognized for its significant contribution to Victoria's postwar modernist legacy. The arrangement of modern, low-rise buildings around the circular public space represents the state-of-the-art site planning techniques of the mid-century, while the individual buildings each express a distinct and refined architectural vision of contemporary Victoria.

Summary Table

COMPARATIVE ANALYSIS: POSTWAR MODERNISM						
NAME/ADDRESS	DATE	ARCHITECT	VALUES	DESIGN	TECHNOLOGY	STRUCTURE
Odeon Theatre,	1948	H.H. Simmonds	Last remaining historic movie theatre in downtown Victoria. One of the first Streamline Moderne buildings built in Victoria during the postwar era and is an excellent surviving example of this style. Masterwork of architect Simmonds	Conceived as an integral part of the movie-going experience; exuberant signage, curvaceous profile of the facade elements and fashionable detailing such as neon lighting, black vitrolite panelling and terrazzo floors.	Extensive use of modern materials such as Vitrolite, neon, stainless steel, etc.	Use of large open clear spans to enable interior volumes.
CNIB Building, 1609 Blanshard Street	1951	John Di Castri	One of the outstanding examples of the development of a local stream of the Modern movement in Victoria.	Designed to resemble a coastal ferry, the front facade incorporates a rounded window capped by a canopy with curved, upturned edges that visually anchors the building and provides the composition with a strong focal point.	Steel sash windows.	Dramatic cantilevered roof planes.
Bank of Toronto, 630 Yates Street	1951	William F. Gardiner	Seeking to portray itself as progressive through its architecture but cautious in its approach, this early example of Modernism in Victoria is stripped of all classical references.	Restrained modernist design. The corner entrance is a traditional banking-hall feature, topped by the Bank of Toronto's corporate emblem.	Polished aluminum-sash windows.	Not considered structurally innovative.
Main Post Office & Federal Building, 1230 Government Street	1952	P.L. James	A monumental building in the heart of downtown Victoria, the Main Post Office and Federal Building is valued for its impressive architecture, which characterized the prominence and influence of the Federal Government. Initiated in 1947, this was Victoria's largest construction project in the immediate post-war era. Important as the last and largest work of architect James.	Designed in the conservative Modern Classical style, still favoured at the time for federal projects, this building unites the Stripped Classicism of the 1930s with the emerging Modernism of the postwar era.	Not considered technologically innovative.	Not considered structurally innovative.
Ballantyne's Florists, 900-920 Douglas Street	1954	John Di Castri	One of the outstanding examples of the	The angular storefronts and complex geometry	The broad light shelf in each retail unit, which divides	Dramatic cantilevered roof planes.

			development of a local stream of the Modern movement in Victoria. Sophisticated abstract design as embraced by Di Castri in his work of this era.	of the shallow-pitched cantilevered canopies reflect F.L. Wright's contemporary work, as does the use of floor-to-ceiling glazing that provides continuity between the interior and exterior. The forms are kinetic, manipulated in all directions, with elements pushed and pulled in and through the storefronts.	the display windows from the transom, is a functional structure that reflects natural lighting into the vaulted interior spaces.	
B.C. Electric Co. Bldg., 1515 Blanshard Street	1955	Sharp and Thompson, Berwick, Pratt	The B.C. Electric Company Building was the first large-scale Modernist building in Victoria, and a significant early example of Modernist architecture in western Canada. Significant as a milestone in the careers of its architects, Sharp and Thompson, Berwick, Pratt.	The numerous plantings, setbacks, open space, and the use of glass showcase pavilions that enlivened the street level, further marked the progressive and humanist character of the design.	First of the two major B.C. Electric head offices; acted as a testing ground for innovative ideas for the Vancouver head office. One of the first large-scale uses of curtain wall construction in western Canada, incorporating rows of unique aluminum sunshade louvers that screened direct sunlight while reflecting diffuse indirect daylight, an early use of passive solar control.	The clear span design was acclaimed for its functional innovation, providing maximum flexibility for the arrangement of offices and allowing natural lighting to penetrate the interior spaces.
Royal Bank, 1501 Douglas Street	1955	E.P. Warren	Representative of the final manifestation of the traditional banking hall before the electronic revolution.	Clean lines of Modernism for the new building reflects the bank's strategic direction, implying forward thinking and stability.	Use of an aluminum curtain wall.	Not considered structurally innovative.
City Hall Annex, #1 Centennial Square	1963-64	Wade, Stockdill, Armour & Partners	Key component of Centennial Square, one of the earliest urban revitalization and heritage conservation projects in Canada.	Exemplified New Formalism styling, popular for civic construction at the time. Uniting classical traditions such as repetitive arches, bay windows and brick detailing with contemporary materials and methods, City Hall was Victoria's first exemplary example of this historicist influence on Modernism	Aluminum window screens. Large-scale precast concrete panels.	Waffle-slab concrete structure.
Bentall Building, 1080-1080 Douglas Street	1963-64	Dominion Construction (Frank Musson)	One of the first high-rise commercial blocks in downtown Victoria. Classic example of an International Style office tower.	Recalls the design of the revolutionary Lever House in New York, with a curtain wall tower rising from a horizontal podium	Vertical aluminum I-beam extrusions attached to the façade served both decorative and functional purposes by enriching the surface articulation and acting as tracks for window cleaning equipment.	Large-scale use of concrete frame construction.

					Proportions and components of the curtain wall, including aluminum sash extrusions, clear window glass and opaque dark-grey spandrel glass.	
McPherson Playhouse, #3 Centennial Square	1963-65	Alan J. Hodgson	The integration of historic and modern fabric was characteristic of the consistent approach to Centennial Square. One of the most significant modernist projects in Downtown.	A clear separation of new and old elements, demonstrating a sensitive understanding of the heritage context while achieving a bold contemporary design. Winner of an award for design excellence from the AIBC in 1969.	Freestanding entry canopies, large glazed walls.	Dramatic use of cantilevered and concrete.

As outlined in the existing Statement of Significance for the Royal Bank, the following Heritage Values and Character-Defining Elements have been outlined, and are assessed as follows:

HERITAGE VALUES	ASSESSMENT
ARCHITECTURE: "associated with its progressive architectural style which was commonly commissioned by banking institutions in the postwar era. It is valued as one of a small number of commercial structures of the modern international style remaining in downtown Victoria.	As noted above, comparative analysis indicates that although it is one of a small number of such structures, it is modest in architectural aspirations and does not display significant design, technological or structural innovations.
DESIGN: "Designed in the international style by the Royal Bank of Canada's Montreal-based chief architect E.P. Warren... the historic place is a modernist allusion to the nineteenth-century temple bank whose architecture was chosen to convey permanence and stability, and more practically was strong and secure.	Modest example of the work of Warren, with little articulation of the curtain wall as seen in his design for the Vancouver Royal Bank branch at 1489 West Broadway.
DESIGN: "The bold use of a 'colonnade'... is a good example of the International style that revered classicism and yet embraced new technology, materials and constructional capabilities."	Curtain wall is modestly innovative compared to other examples.
DESIGN: "the choice of the clean lines of Modernism for the new building reflects the bank's strategic direction, implying forward thinking and stability." Representative of the final manifestation of the traditional banking hall before the electronic revolution.	Retains vestigial classicism, which precluded truly modernist innovation. Typical of conservative approach to modernism by banks, especially in smaller centres and for smaller branches.

CHARACTER-DEFINING ELEMENTS	MITIGATION ASSESSMENT
Location on a main city street at a busy intersection	New building will assert similar presence
Corner location	Reflected in design of new building
Classical proportion	Reflected in design of new building
Classical elements including base, aluminum colonnade of curtain wall glazing, slender cornice, and recessed central entrance on short elevation.	Reflected in design of new building
Materials of construction including Haddington Island Stone-faced walls and joint pattern, Peribonka (jet black) granite plinth, Verdi Oniciate (green flecked marble); marble recessed entrance canopy.	Will be salvaged for re-use in new building.
Patent (curtain) aluminium glazing comprising wide projecting mullions and slender transoms holding plain glazing, opening lights and moulded aluminum panels.	Moulded aluminum panels will be salvaged for re-use in new building.
Open banking hall on the interior	Will be reflected in the atrium space in the new building.

3.3.1 Conclusion

Based on this overall assessment, the Royal Bank Building at 1501 Douglas Street is not considered one of the best examples or landmarks of the local Modern movement; there are other extant buildings in downtown Victoria that exhibit a more significant response to the postwar context, and possess higher heritage value.

Design: The Royal Bank displays a very conservative approach to modernist design. This was typical of the approach of the banking industry, which valued safe and predictable designs rather than more flamboyant architecture, so that they could project an image of stability that would inspire public confidence. Branch banks especially would employ a clear and rational, but subdued appearance. The Royal Bank Building does not display features that would be considered outstanding examples or motifs of the modernist aesthetic.

Technology/Materials: There are no specific materials or features of the Royal Bank Building that are of superior or innovative quality. The materials are of a typical nature, and the palette of material hearkens back to a more traditional rather than a modernist expression. The aluminum curtain wall is of interest, but is not the best local example of the technology.

Structure: There are no innovations evident in the design or construction of the Royal Bank Building.

The Royal Bank Building may therefore be evaluated as a competent and functional example of postwar modernist architecture, but not one of the more significant examples in Victoria or the Capital Regional District.

4. IMPACT OF HERITAGE BUILDING RETENTION ON THE DEVELOPMENT PROPOSAL

4.1 Introduction

The Development Proposal that is the subject of JEL's application for a New Comprehensive Development Zone and a Development Permit reflects the outcome of several years of work on the part of JEL and its design team, led by D'Ambrosio Architecture + Urbanism. A thorough description of the Development Proposal is presented in the letter from JEL to Mayor and Council dated December 9, 2013 in support of the application. The Development Proposal will support the ongoing regeneration of the City Hall area and significantly contribute to recent enhancements in community vitality in the North end of Downtown Victoria. The result will be a building complex and urban landscape that fully supports the objectives contained in the City of Victoria's Official Community Plan, Downtown Core Area Plan and Economic Development Strategy, and advances the Downtown Core's status as the Capital Region's cultural and economic urban centre.

A number of development concepts were evaluated by the design team which incorporated the retention of 1501 Douglas Street, however none were considered viable or conducive to an optimized architectural and urban design solution. It is the belief of JEL and the design team that the Development Proposal for the Site will bring notable benefits to the City of Victoria that would not be realizable in the context of the retention of the existing building at 1501 Douglas Street. It is these benefits which underpin the rationale for the removal of 1501 Douglas Street.

4.2 Design Evolution & Feasibility Studies

Initial feasibility studies explored a number of scenarios that involved the retention of the existing building at 1501 Douglas Street. The purpose of this preliminary investigation was to assess the viability of the intended programmatic and development planning goals for the project in the context of retaining 1501 Douglas Street. Consideration was given to the following:

- Structural and technical integrity of the existing building and the implications of repurposing and re-using it relative to current building codes.
- Functionality of the spaces within and around the existing building in the context of an urban commercial office complex.
- Implications of incorporating the existing structure into the intended structure of the redevelopment.
- Formal and expressive integration of the existing building with the architectural and urban design intentions for the Proposed Development.

The analysis included review of site documentation, plans, relevant reports and statutes and direct observation. Physical design studies were done using digital drawings and modeling. It was determined that the negative impacts and implications resulting from the incorporation of the existing building into the new redevelopment would exceed the value of its retention for the following reasons:

1. The above-grade portion of the building would largely have to be reconstructed to achieve conformance to seismic standards, material contamination limits and building envelope environmental standards. This would likely compromise the spatial qualities of the main banking hall and the aesthetics of the curtain wall.
2. The configuration of the existing structure with its small enclosed spaces, including structurally robust vaults, and large open hall are limiting to circulation and functional planning and would negatively impact the desired program for the Proposed Development. The existing building would have to be largely gutted and thereby turn

the historic preservation approach to one of façade- retention, which, it can be argued, has diminished heritage value. The exterior space implications of leaving the facades in place would compromise the main building entrance, the public open space and the new view corridors and spatial relationship with the City Hall Heritage façade and clock tower that was a principal driver of the massing and design of the Douglas Street frontage.

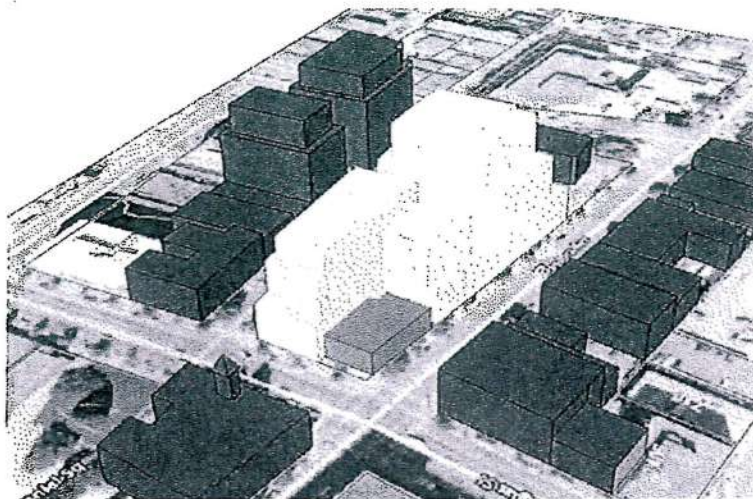
3. The incorporation of the sub-grade structure of 1501 Douglas Street would limit the efficient layout of underground parking and services for the Proposed Development. Further the cost of excavation, shoring, restructuring to seismic standards and configuring the footings and foundations and consequent above-ground portions of the building around the existing structure would impact the viability of the Proposed Development.
4. With the existing building in place, the redevelopment of the site would be significantly different in terms of the floor area, heights and general form and character. The balance of Section 4 discusses the key architectural requirements and features of the building that are facilitated by the removal of 1501 Douglas Street. It is the subjective opinion of the design team that the loss of the registered building will be mitigated by the Proposed Development.

4.3 Impact to Building Massing

Since initial site studies, City Hall has played a significant role in the composition of the Development Proposal. The landmark status of the City Hall building is respected and celebrated architecturally through the orientation of the Phase I building's central axis to the clock tower. The layout of elements for both phases of the Project, their entry points, circulation patterns, and the location of the rotunda, all serve to acknowledge and reinforce the iconic status of City Hall. The Phase I building has been designed so that from the public plaza at the Douglas Street and Pandora Avenue corner and all indoor and outdoor public areas, views of City Hall's clock tower are prominently featured. The Development Proposal has been partially set back from Douglas Street to allow for generous open space on site. This setback affords a spatial and sightline expansion along Douglas Street for the City Hall building and through this emphasis assists in recapturing the historical presence of this section of Victoria's 'Main' Street.

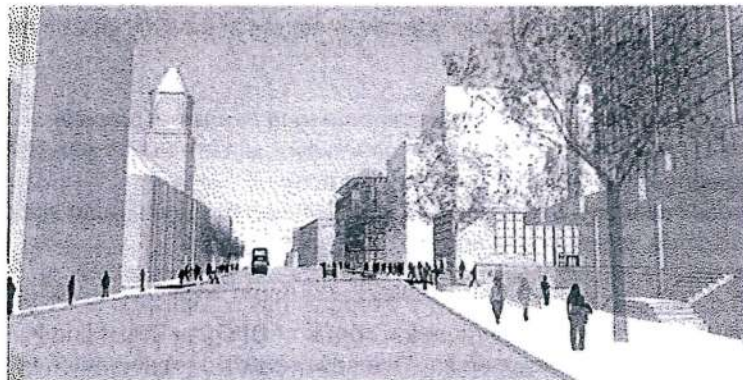
One study involved allocating a greater portion of the density to the Phase II building. The rationale for phasing the development was based on JEL's understanding of market absorption rates and its tolerance for market risk. Increasing the size of Phase II would render it beyond a viable size and exceed JEL's tolerance for economic risk. As such this option was not considered further.

A second line of investigation sought to redistribute the massing of the Phase I building to the Cormorant Street edge of the site, wrapping the proposed structure around the existing building at 1501 Douglas Street and increasing the height of the Phase I building's Northern wing. The resulting height was found to have negative impacts on the contextual fit of the building mass, in particular its relationship to Fairfield Block across Cormorant Street and City Hall's clock tower across Douglas Street.

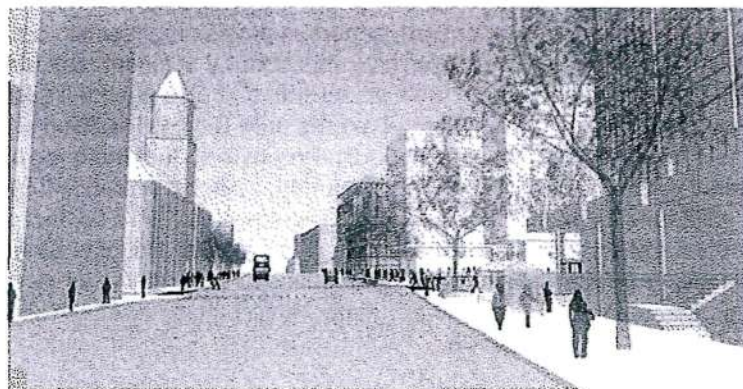


Redevelopment Feasibility Study of Alternate Massing

View studies confirmed the importance of limiting building heights within the 90-metre special consideration zone around City Hall's clock tower. The proposed 6-storey massing of the Phase I building integrates with the Douglas Street frontage and, when approached from the North or South directions along Douglas Street, allows the clock tower to be visually prominent. The view of the clock tower that is gradually revealed as one travels west along Pandora is made more dramatic by the setting back of the south wing of the proposed new building so that the clock tower and the corner of City Hall is framed over the new Douglas Plaza. None of these contextual sensitivities incorporated into the Development Proposal's massing strategy for the Phase I building would be viable within the context of the retention of the existing structure at 1501 Douglas Street.



View Study with Massing to North of 1501 Douglas Site



View Study with Proposed Massing



View of the Development Proposal Looking Northeast

4.4 Impact to Douglas Pandora Plaza

Both JEL and its architectural design team believe that the priorities of good urban design and compelling architecture hold equal importance in the development of any urban site. Given the historic and social context of this site, special attention has been paid to the planning of open spaces that complement civic spaces such as Centennial Square, historic buildings such as City Hall, and the conditions of all three bounding streets. The proposed massing and network of open spaces have been designed to achieve the objectives set out in the Official Community Plan (July 2012), in particular the following:

8 (c) That new buildings and features contribute to the sense of place in development permit areas and heritage conservation areas through sensitive and innovative responses to existing form and character.

8 (d) That social vibrancy is fostered and strengthened through human scale design of buildings, streetscapes and public spaces.

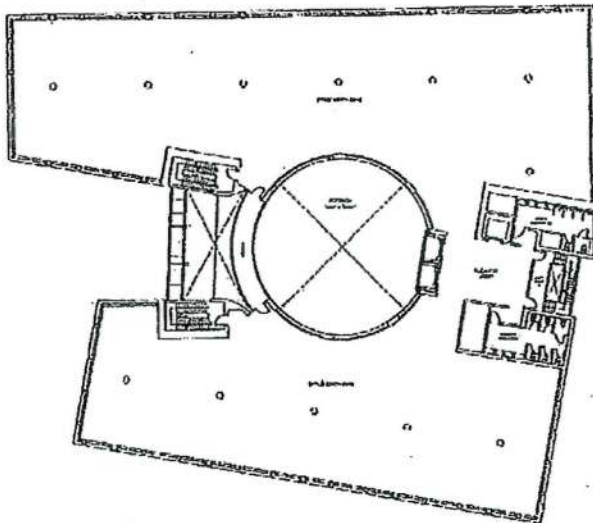
Informed by these objectives, the Development Proposal has established building massing which has been pulled away from the street edge at the corner of Douglas Street and Pandora Avenue to facilitate the creation of a new urban plaza. This newly created urban gathering spot represents the part of the site with the most public and symbolic importance. The creation of this space ensures a prominent visual link to the intersection of two major streets and the historic façade of City Hall. Further, with south-westerly exposure, generous provision of seating areas, extensive landscaping, visual art displays, and the vitality brought about by adjacent restaurant and retail uses, this plaza will be a sunny and comfortable social space. It also provides a location for the enjoyment and appreciation of the architecture of the restored City Hall building and its clock tower. This plaza has been keyed in the Development Proposal so that the open space will enhance and benefit from the vitality of the interior rotunda, adjacent entrance lobby and commercial retail units, and its positioning on one of Downtown Victoria's busiest pedestrian corners. The majority of the footprint of the existing building at 1501 Douglas Street sits on the planned location of this new urban plaza. The aforementioned benefits of this dynamic and civically enhancing open space would be either greatly compromised or unachievable in the context of retention of the existing structure.



Douglas / Pandora Plaza

4.5 Impact to Floor Plate Efficiency and Indoor Environmental Quality

An essential precondition to the viability of the Development Proposal is the ability to offer prospective tenants high quality office space. One of the necessities in fulfilling this requirement is the need for office floor plate sizes to conform to certain minimum dimensions to accommodate standard furniture configurations, facilitate flexibility in space planning, and ensure sufficient penetration of natural light throughout the space. This criterion must be met in order to ensure the functional viability of the Project and without it the project would not proceed. An initial design study referenced in the previous section wherein the massing of the Phase I building was redistributed to the Cormorant Street side of the Site and a taller Northern wing wrapped around the existing building at 1501 Douglas Street would result in floor plate dimensioning which falls well short of meeting the functional office space standards referenced above. Further, the resultant increase in floor plate depths would impair natural light penetration to office areas and in doing so reduce indoor environmental quality and compromise the Project's performance on one of LEED's key criteria.

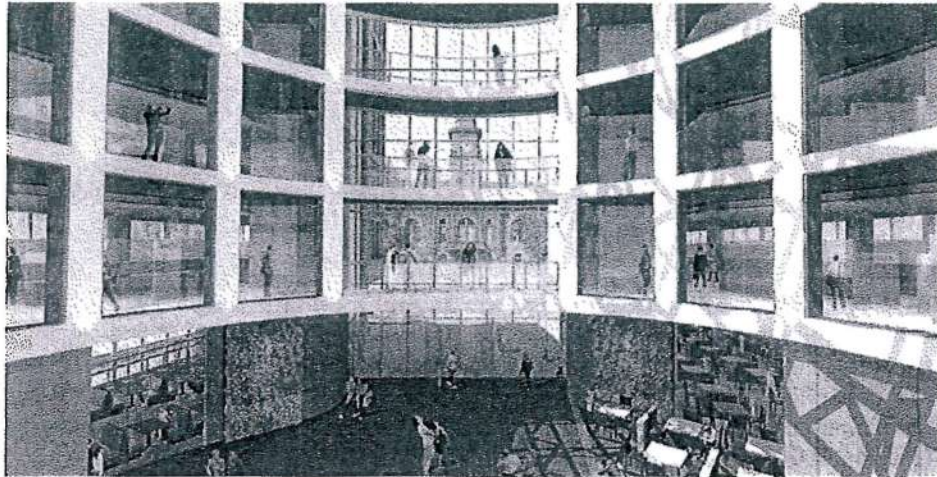


Floor Plan of Levels 2-6 of the Phase 1 Building

4.6 Impact to the Phase I Rotunda

One of the most notable design features of the Development Proposal is the dramatic interior rotunda in the Phase I building. The approximately 400 m² open space in the centre of Phase I is a unique design feature made possible through the spatial relation and floor plate dimensioning of the North and South office wings on floors 2 through 6 of the Phase I building. Similar to the Atrium at 800 Yates Street, this area is envisioned to be an indoor gathering place for building occupants, visitors and the public at large. It will be provisioned with high quality materials,

extensive seating areas, interface with adjacent commercial / retail areas, and allow abundant natural lighting through a dramatic skylight above and a glazed façade looking West showcasing a new viewpoint of City Hall's clock tower. In addition to its ordinary course use as a gathering spot and community hub, it will also serve as a venue for arts, cultural, and non-profit events during evenings and weekends, and in doing so contribute to the enhancement of Downtown Victoria's cultural offerings. The spatial configuration of the office floor plates requisite for the creation of this new indoor gathering area for the downtown community would not be possible in the context of the retention of the existing building at 1501 Douglas Street.



View from the Rotunda Interior

4.7 Impact to Overall Project Viability

In October of 2011, Victoria City Council endorsed the document titled Growing Business in BC's Capital City: Victoria's Economic Development Strategy. It describes the importance of maintaining and enhancing Downtown Victoria as the business and employment centre for the Capital Region:

There are some aspects of the regional economic base that are best suited to the urban core. These include government headquarters, major office-based specialized business services, specialty retail, major arts/culture facilities, and large components of the tourism sector. Although some types of office use are appropriate in regional town centres, the City should remain the region's Downtown.

JEL and its affiliates currently own and manage multiple commercial office and retail properties in the Central Business and Historic Commercial Districts of Victoria and believe strongly in the importance of downtown Victoria as the economic heart of the Capital Region. Its objective in the Development Proposal is to respond to the specific needs of high quality office and retail tenants in terms of location, floor space optimization and flexibility, natural light, indoor environmental quality, amenities, and well appointed outdoor space, and to do so in a manner that is enhancing to the Project's community context.

The Development Proposal responds to these objectives and accordingly, it is anticipated that the Project will be able to attract an array of high quality office and retail tenancies which will in turn contribute towards securing the Downtown Core's position as the vibrant cultural and economic centre of the Region. It is anticipated that the office premises will house over 1,400 workers at completion and the ground level retail uses will bring enhancing amenities to the neighborhood and serve as a catalyst for positive street front vitality. A number of critical preconditions to this anticipated usage pattern, including floor plate optimization, natural light, indoor environmental quality, well appointed outdoor space, and responsiveness to community context, would be compromised by the retention of the existing building at 1501 Douglas Street.

5. MITIGATION STRATEGIES

JEL is proposing a number of mitigation strategies to appropriately commemorate the architectural legacy of 1501 Douglas Street. In addition to the postwar modernist design influences incorporated in the architecture of the Development Proposal, specific strategies involving public education initiatives surrounding post-war modernist architecture and the selected re-use of noteworthy materials from the existing 1501 Douglas Street building have been considered. To inform consideration of these mitigation strategies, JEL engaged Donald Luxton & Associates to provide an independent opinion on suitable opportunities for mitigation. Additional mitigation measures were added at the suggestion of the City of Victoria's Heritage Planning Staff.



Royal Bank Building, 1960

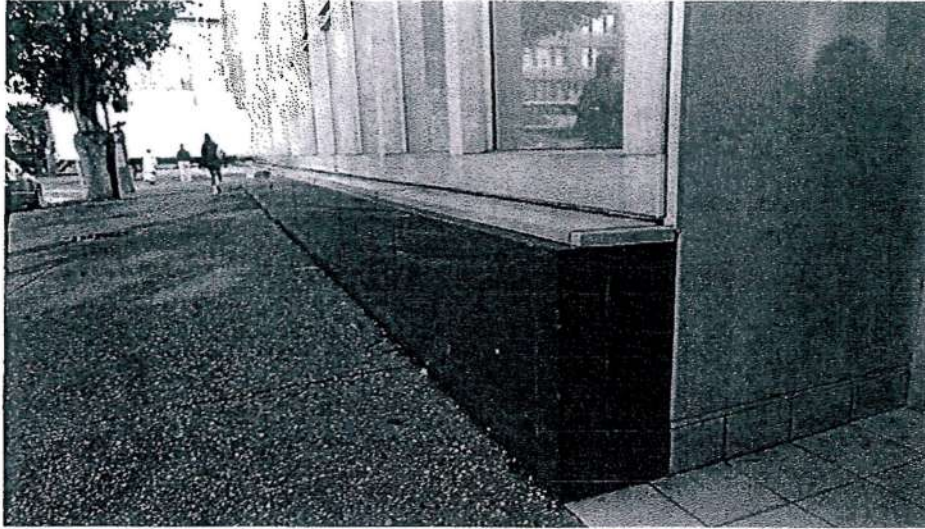
The Modernist Royal Bank Building at 1501 Douglas Street features character-defining elements that will be salvaged and reused in the new development on the site. These elements include the polished granite along the base and in the recessed front entrance, the Haddington Island andesite cladding and the decorative aluminum spandrel panels. Other materials from the existing building will be investigated with the intention to reuse and incorporate interesting and meaningful historic elements in the architectural composition of the new building.

5.1 Salvage and Re-Use Strategies

The key character defining materials including the peribonka black granite, Verdi Onicate marble, Haddington Island Andesite and the fluted aluminum panels have been identified for salvage and reuse in the new development. An inventory of materials on the building has been compiled and Ralmax Development Inc. has done a site investigation to evaluate appropriate assumptions to be used in determining the amount of material that can be successfully salvaged. Appendix E provides a full report on material re-use including inventories and locations where materials are to be reused. All salvaged granite, marble, andesite and aluminum panels are anticipated to be reused in the new development.

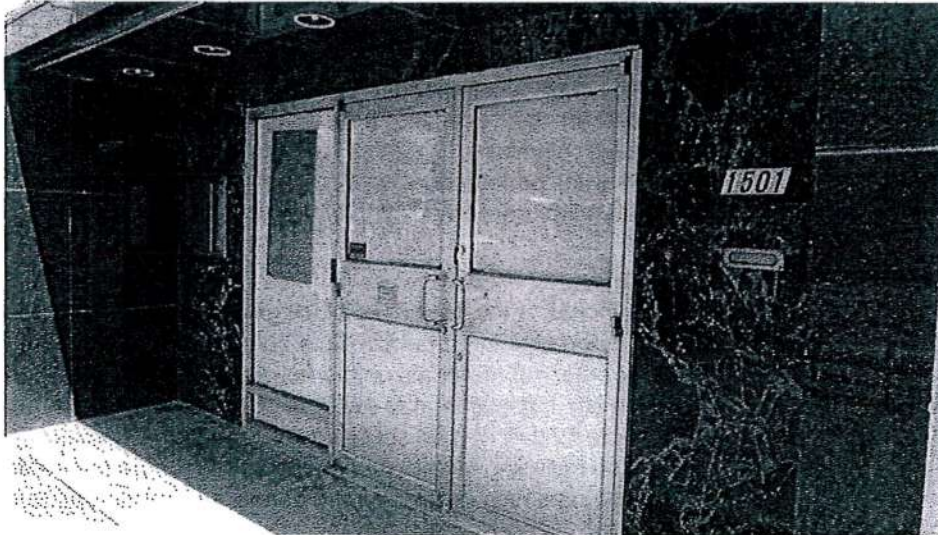
5.1.1 Peribonka Black Granite

One of the design elements of 1501 Douglas is the polished black peribonka granite entry portal and curb-walls at the street level. The granite will be salvaged and reused, in combination with the Verdi Onicate marble, to line the new entrance portal fronting the 1515 Douglas Plaza. The salvaged granite will be repurposed as custom designed seating in the new plazas on Douglas Street and Pandora Avenue; at the corner of Douglas and Pandora, the new benches will be arranged along the line of the existing building as a way to commemorate and make a physical link with the history of the site. Additional custom bench / bicycle storage elements will incorporate the salvaged granite into the Cormorant Street end of the Through-Block Walkway, at the eastern portion of the site. Of the existing 51 pieces of black granite, 47 will be re-used in the new development (anticipated salvage rate 95%).



5.1.2 Verdi Onicate Marble

The marble panels at the 1501 Douglas entrance will be repurposed, in combination with the black granite panels, to form the interior walls of the new 1515 Douglas Plaza entrance portal. Of 9 existing pieces, 8 will be re-used (anticipated salvage rate 95%).



5.1.3 Haddington Island Andesite Stone

The Haddington Island andesite stone panels represent a character-defining feature of the Modernist building. The salvaged stone panels will be reused in the seating / planter walls of the new complex at the 750 Pandora Plaza. Taking advantage of the varying shapes and thicknesses of the material, the andesite blocks will form a patterned accent wall adjacent to the main 750 Pandora entrance. Of 294 existing pieces, 192 will be re-used in these plaza features (anticipated salvage rate 65% due to the extent of damage in the existing condition).



5.1.4 Aluminum Panels

The decorative aluminum spandrel panels located on top of the curtain walls will be salvaged and re-used to make decorative wall features in the new ground floor bicycle rooms. The panels will be placed on the wall above the bicycles, so that they are visible to the exterior and reference the original placement of the panels at the upper spandrels. Of 33 existing panels, 31 will be re-used in the new project (anticipated salvage rate 95%).



5.1.5 Salvage and Storage Plan

The granite, marble, andesite stone, aluminum spandrel panels and other character defining materials will be removed by hand and appropriate measures will be taken to respond to how the material is fastened to the existing structure. Ralmax Developments will be responsible for this scope of work. When salvaging commences Ralmax has indicated that the first pieces removed for each material will be units that are already damaged or in the worst condition allowing them to optimize their removal procedure on the poorer pieces. Once removed the materials will be inventoried and placed on pallets which will be shrink wrapped. If any materials require additional protection it will be provided. The materials will be moved to a secure and dry Quonset hut owned by the developer on Hunt Road in Cordova Bay.

Once construction progresses to the appropriate stage the materials will be relocated back to the site. Should there be any excess material (on or off site) the applicant will prominently advertise the availability of material for a period of not less than twelve months or the time when the material has been claimed, whichever is less. Both the Times Colonist and websites such as Craigslist shall be utilized for the purpose of making the public and development community aware of the availability of architectural fabric for their appropriate re-use. Preference will be given to recipients who will reuse the material in a heritage context.

5.2 Educational Opportunities

As part of the proposed mitigation strategy, an educational component is proposed that will heighten public awareness of the value of postwar modernist architecture, and contribute to the public dialog about its contribution to our understanding of Victoria's ongoing urban development. This exhibit is proposed as having an exhibit and speaker component that would engage the public in a meaningful way, to *exhibit*, to *provoke* and to *dialog*. Although unusual within the context of new development, it is not unique, and is an innovative way to promote public engagement. An example of an architectural exhibit is the current *Gesamtkunstwerk* exhibit in Vancouver that is being sponsored by Westbank as part of the Vancouver House development. Although directly tied to the new development, it is specifically being prohibited from acting as a marketing tool, and has been independently curated.

<http://gwerk.ca/>

From a never-before publicly-shown Arthur Erickson 1955 sketch that set the agenda for Vancouverism, to renderings, models and videos illustrating the most adventurous building here in years, the Gesamtkunstwerk exhibition explores the thinking behind contemporary city-building. The show opens up the design, context and background of Vancouver House to public understanding with powerful visuals and commentary, showing how "Total Design" can transform contemporary condo living through the synthesis of art, architecture, interiors, urbanism and energy with public-mindedness. "Gesamtkunstwerk" was a new word in German used by composer Richard Wagner in the mid-19th century, then adopted by Le Corbusier and the Bauhaus architects in the 1920s as re-making the world through "Total Design"—the integration of all of the creative arts and all scales of designs, "From teaspoons to cities" according to Walter Gropius. This is the only word that adequately describes the intentions by BIG as architects and Westbank as developers for their Vancouver House development, with its ground-breaking organic forms in concrete, glass and copper, its re-thought interiors and apartment appointments, its integration into the skyline, its tapping into Westbank's new "Creative Energy" district energy system, its inspiring public art by Rodney Graham, and its creation of significant new public spaces for the enjoyment of all Vancouverites.

The project Heritage Consultant, Donald Luxton, and an independent specialist Curator will develop an exhibit on Modern Architecture in Victoria to be informed by the source material contained in "Modernism in Victoria 1945-1975" (Donald Luxton & Associates, July 2006); including bank buildings such as the Bank of Toronto Building (630 Yates Street) and the Bank of Nova Scotia (1301 Douglas/702 Yates Street). The exhibit could be held in the rotunda of the new

building over a two-week period, or alternatively, could be held in conjunction with the University of Victoria and presented at their Legacy Gallery, located in the modernist Bank of Toronto Building. In addition, the exhibit will include a minimum of two presentations, from experts on Victoria's modernism such as Allan Collier, Martin Segger and/or Donald Luxton. At the end of the exhibit, the assembled materials will be offered to the University of Victoria, and any other organization requested by the Senior Heritage Planner, for their future use. The educational event described above will occur within one-year of an occupancy permit being issued for 1515 Douglas Street.

Should the Senior Heritage Planner prefer, as an alternative to the Postwar Modernist educational exhibit described above, the Developer will make a \$15,000 donation to either the Victoria Civic Heritage Trust or the Victoria Heritage Foundation to form a dedicated fund to pursue public education regarding Victoria's modernist legacy. The Senior Heritage Planner could provide direction to the selected group on how the funds are to be utilized.

5.3 Commemorative Signage

JEL will provide commemorative interpretive signage to highlight the site's history and evolution. The exact locations and designs of this signage will be finalized in conjunction with the detailed design of the exterior art and furnishings package, however it is anticipated that a minimum of two installations will be located in the public plazas. Signage will be displayed in such a way that the 'story' of the site's history will be discovered and encountered as part of the composition of the open space as opposed to being presented as 'add on signage'. The installation will include explanatory text about the history and evolution of the architecture and urban design of the block, including archival imagery of some of the more notable buildings that have come and gone from the site. The text will be professionally written to inform and raise awareness of how the city grows and redevelops, and how this affects the character and shape of the City. The installation will be made of or incorporate some of the materials salvaged from the existing buildings.

5.4 Compilation of Building Documentation

JEL has assembled two collections of documentation for 1501 Douglas Street. The first was a DVD submitted with the original application which included scans of original architectural and engineering drawings and professional photographic documentation. A complete list of materials included on the DVD can be found in Appendix D. As part of the resubmission a second building documentation package has been compiled according to heritage conservation standards by Donald Luxton and is attached in Appendix D. Both these documentation packages form a permanent record for the building. In addition a building condition report can be found in Appendix C.

5.5 Design References

The design of the Proposed Development seeks to support the appreciation and promotion of the architectural heritage of Victoria through a number of strategies.

The new buildings and open spaces have been consciously designed to interact with and enhance the presence of the neighboring restored Heritage façade of City Hall and the historic clock tower. The planimetric axis of the tower has been extended and used as the generative geometric device for the central spaces of the entire block. This space forms a view corridor through the new complex with a public plaza, the main entrance, a six-storey glass wall and interior traversing pedestrian bridges. This is the major east-west axis of the proposed rotunda atrium space between the north and south wings of the Phase 1 building and ultimately terminates at the main atrium lobby of the Phase 2 tower. This special treatment will be a significant enhancement of the urban setting of City Hall providing exceptional spatial settings and viewpoints. The new buildings and open spaces will emphasize the importance of formal harmony and historic continuity in this downtown precinct.

Within the context of the neighborhood and as a gesture to the site's heritage and evolution it was deemed appropriate that the Proposed Development should be a contemporary interpretation of postwar modernist architectural ideas, including the expression of structural systems, free plans,

orthogonal planes and lines, authentic material expression, and respect of function. Further it is felt the Proposed Development will demonstrate the evolving architecture and urban form of downtown Victoria. By embracing modernist tenants, this project reflects the legitimacy of 20th century architectural heritage and represents a departure from the influence of neo-classical, 18th and 19th century precedents that have dominated references in new development in Victoria.

One notable departure from this approach is the Proposed Development's relationship to lot lines at the corner of Douglas and Pandora. As is characteristic of modernist buildings, the existing building places solid walls at the lot line along Pandora. In contrast, the Proposed Development is set back to create a wider and more gracious covered pedestrian walkway and retail frontage. Along Douglas Street the Proposed Development is set back further than 1501 Douglas Street to create the sunny public plaza described above. This open space allows views and spatial deference to City Hall from Pandora as well as facilitating a natural public access route to the entrance plaza of the Phase 1 Building. This deviation from the literal recreation of the existing physical conditions at the corner facilitate the accommodation of contemporary and site specific considerations, deference to City Hall and the clock tower, public amenity spaces and urban fit. On this basis it is justified that the design for the Proposed Development be different from that of the existing structure.

6. Conclusion

Those involved in the development of an urban site are entrusted with an important civic responsibility. It is expected that beyond the economic interests of private development there should be an interest in the betterment of the community by way of improvements to the urban condition. A development that is socially, economically, and ecologically sustainable contributes to both the success of private development and the quality of life of the city's inhabitants. JEL and its design team have endeavored to balance these priorities in the design of the Development Proposal.

JEL, with input and advice from both heritage and architectural professionals have determined that the viability of the Development Proposal would be critically compromised if 1501 Douglas Street were to be retained and as such are requesting permission to remove the building. By removing 1501 Douglas Street, the Phase I building is able to incorporate its dramatic interior rotunda area, the office floor plates on the upper levels can be optimized for user efficiency and environmental performance, visual deference to City Hall from Pandora Avenue and Douglas Street is facilitated, and a dynamic public plaza on the Southwest corner of the Site can be created. We believe that these resultant benefits, along with the more holistic contributions of the Development Proposal to the City of Victoria adequately offset the loss of 1501 Douglas Street.

JEL is also proposing a number of mitigation strategies to appropriately commemorate the architectural legacy of 1501 Douglas Street including materials re-use, the provision of a building documentation package to the City of Victoria, a public education initiative on post-war modernist architecture, the creation of new site lines that celebrate the historic value of City Hall and the Clock Tower and the heavy incorporation of modernist influenced design elements in the architecture of the Development Proposal. It is our hope that the Project will make a significant contribution to Victoria's architectural heritage and will itself be a publicly cherished building well into the future.

CITY OF VICTORIA
Committee of the Whole Report

Date: November 1, 2007 **From:** Steve Barber, Senior Heritage Planner
Planning & Development Department
Subject: Proposed Additions to the *Heritage Registry*
Downtown Examples of the Modern Movement

Executive Summary

The City of Victoria *Heritage Registry* currently identifies over 200 downtown buildings of heritage significance dating back from the earliest history of Victoria in the 1860s up to the 1930s. However, there has been no research or identification of heritage resources from the post-war period 1945-1975. Architecture from this period is often described as the "Modern Movement", growing out of the International style founded in Europe in the 1920s and 1930s by architects such as Le Corbusier, Walter Gropius and Mies van der Rohe. There are a number of examples of Modern Movement architecture in Downtown Victoria which have architectural, historical and social significance.

Committee of the Whole considered a staff report on this issue on October 5, 2008 and adopted a motion to consider eleven properties representing the Modern Movement for addition to the *Heritage Registry* and to undertake a consultation process with the affected owners. This process is now complete. The majority of affected owners are opposed to this action.

Recommendation:

1. That Council schedule a non-statutory public hearing to consider the addition of the properties listed in this report to the *Heritage Registry* and to allow affected property owners and other interested stakeholders an opportunity to address Council.
2. That Council adopt the following resolution:
That City Council endorse the principle of recognizing the heritage significance of the Modern Movement in Victoria as described in the Statement of Significance by Don Luxton & Associates, July 2006.
3. That, following the public hearing, and pursuant to Section 954 of the *Local Government Act*, City Council adopt a resolution to add the following properties to the *City of Victoria Heritage Registry*:
 - 637 Bay Street – Bay Street Hydro Substation
 - 1018 Blanshard Street – City Brokerage Building
 - 1515 Blanshard Street – B.C. Electric Company Building
 - 1609 Blanshard Street – CNIB Building
 - #1 Centennial Square – City Hall Annex
 - 912 Douglas Street – Ballantyne's Florist Building
 - 1080-80 Douglas Street – Bental Building
 - 1501 Douglas Street – Royal Bank Building
 - 1230 Government Street – Main Post Office and Federal Building
 - 630 Yates Street – Bank of Toronto Building
 - 780 Yates Street – Odeon Theatre Building

Respectfully submitted,

Steve Barber
Senior Heritage Planner
Community Planning Division

Mark Hornell, Manager
Community Planning Division

Deb Day Director
Planning & Development
Department

1. Purpose

The purpose of this report is to:

1. Provide City Council with information on the heritage significance of the Modern Movement in Victoria's urban development from 1945 to 1975;
2. Report on the results of the consultation process with affected property owners for the proposal to add eleven properties representing Modern Movement architecture in Downtown Victoria to the *Heritage Registry* and to conclude the process.

2. Background

Committee of the Whole considered a staff report on this issue at its meeting of October 5, 2006 and passed the following motions:

Councillor Charlayne Thornton-Joe moved it be recommended to Victoria City Council:

1. That the following properties be considered for addition to the *Heritage Registry*:

- B.C. Electric Company Building, 1515 Blanshard Street
- The City Brokerage Building, 1018 Blanshard Street
- Main Post office and Federal Building, 1230 Government Street
- City Hall Annex, 1 Centennial Square
- Bentall Building, 1060-1080 Douglas Street
- Bank of Toronto Building, 630 Yates Street
- Ballantyne's Florists 912 Douglas Street
- Odeon Theatre, 780 Yates Street

2. That a meeting be convened with the property owners and interested stakeholders to establish a consultation process.

Councillor Madoff moved that City staff complete a study on the following buildings to ascertain whether they could be added to the City of Victoria Heritage Registry and report to Committee of the Whole:

1. The CNIB Building; and
2. The Bay Street Hydro Substation.

CARRIED 06/648

Councillor Madoff moved that City staff complete a study on the Royal Bank Building on the corner of Pandora and Douglas Streets to ascertain whether or not this building could be added to the City of Victoria Heritage Registry and report to Committee of the Whole:

OPPOSED: Councillors Holland, Hughes and Young
CARRIED 08/647

Consultation Process

Property owners were notified by mail and subsequently contacted by telephone, meetings and e-mail. In addition, a meeting was held with a number of representatives of the development industry at the request of the Urban Development Institute. This included UDI, the Victoria Real Estate Board, the Greater Victoria Chamber of Commerce and University of Victoria Properties. Correspondence was received from a number of these organizations expressing concerns regarding the proposal. (See Attachment A). A number of property owners have also submitted correspondence. (See Attachment B). With the exception of the owner of 637 Bay Street, all property owners are opposed to the proposal to add their properties to the *Heritage Registry*. Correspondence has also been received from representatives of St. Andrew's Presbyterian Church regarding the proposed addition of 912 Douglas Street and expressing concern this

would interfere with a potential redevelopment of the site they are considering in partnership with Westbank Developments. (See Attachment C).

The following responses were received:

637 Bay – Bay Street Hydro Substation	Supported	See letter dated June 16, 2007
1018 Blanshard – City Brokerage Building	Opposed	See e-mail dated September 26, 2007
1515 Blanshard – BC Electric Company Building	Opposed	See letter dated May 4, 2007
1609 Blanshard Street CNIB Building	Opposed	Telephone conversation with owner
#1 Centennial Square – City Hall Annex	Opposed	See letter dated October 9, 2007
912 Douglas Street – Bellantyne's Florist Building	Opposed	See letter dated October 9, 2007
1060-80 Douglas Street – Bentall Building	Opposed	Telephone conversation September 17, 2007
1501 Douglas Street – Royal Bank Building	No position	Telephone conversation September 18, 2007 *
1230 Government – Main Post Office and Federal Building	Opposed	See letter dated February 26, 2007
630 Yates Street – Bank of Toronto Building	Opposed	See letter dated June 12, 2007
760 Yates Street – Odeon Theatre Building	Opposed	Telephone conversation September 14, 2007

*A spokesperson for the Royal Bank advised that the bank would not submit a written response as the policy was to not comment on local political issues.

3. Issues/Analysis

Senior Government Properties

- The building at 1515 Blanshard Street is owned by the Province of BC and the building at 1230 Government Street is owned by the Government of Canada. As senior levels of government, they are not legally bound by municipal regulations. However, past practice has been for the City of Victoria to add properties owned by senior levels of government to the *Heritage Registry* in order to monitor future actions which may impact their historic character.

Impact on Property Values

- The view has been expressed by a number of organizations that adding these properties to the *Heritage Registry* will have a negative impact on the property values. It should be noted that there are approximately 200 heritage buildings in Downtown Victoria, many of which have been successfully rehabilitated for retail, office, hotel and residential uses, assisted by the City of Victoria financial incentive programs. The City of Victoria added approximately 82 buildings to the *Heritage Registry* in 1990 following a review of the Downtown Heritage Inventory. Many of these properties have been successfully rehabilitated, e.g. the Vogue Apartments – 1450 Government Street, the Monaco Apartments – 1401 Government Street and the A-Channel – 1420 Broad Street. Circumstances will vary with each property, but the *Heritage Registry* allows City Council to consider the important heritage values of the community when evaluating proposals for new development. Further, the character of Victoria's Old Town is a valuable tourist asset supporting an industry that generates over a billion dollars annually in revenues. Listing on the *Heritage Registry* allows the City to negotiate alternative solutions in cases of redevelopment which still allows for the heritage conservation concerns to be addressed. One example is the Sussex Place development which incorporated the facade of an important 1938 Art Deco hotel into a new mixed-use retail and office development. It

should also be noted that several of the Modern Movement examples are of such a size and scale that they are not likely candidates for redevelopment, e.g. the Bentall Building – 1060-1080 Douglas Street, B.C. Electric Company building – 1515 Blanshard Street and the Main Post Office building – 1230 Government Street.

Legitimacy of Post-War Heritage

Victoria's history did not stop in 1945. While substantial resources have been committed to preserving historic commercial, institutional and residential buildings from the Victorian, Edwardian and Arts-and-Crafts styles, there has been little effort or recognition of more recent examples of our historical development, such as Art Deco, Art Moderne or Modern Movement styles. There is also recognition in the community that heritage conservation needs to encompass a broader range of values, including cultural, social, spiritual, aesthetic and scientific values. The concerns expressed by the Urban Development Institute and the Victoria Real Estate Board focus primarily on the economic values and redevelopment potential of affected properties. This issue must be acknowledged but should be balanced with the broader concerns of the community for the preservation of the recent past.

4.a. Options

- (A) That Council decline the recommendation of staff and not add the properties to the *Heritage Registry*. In certain cases, this may lead eventually to the demolition of the building and a loss of heritage value to the community.

Pros:

- Acknowledges position of property owners
- Avoids any potential claims for financial compensation which may result if Council adopts a heritage designation bylaw to prevent demolition.

Cons:

- Possible loss of significant modern heritage landmarks
- No opportunities to negotiate alternative solutions which might preserve some of these examples from demolition.

- (B) 1 That Council schedule a non-statutory public hearing to consider the addition of the properties listed in this report to the *Heritage Registry* and to allow affected property owners and other interested stakeholders an opportunity to address Council.
- 2 That Council adopt the following resolution:
- That City Council endorse the principle of recognizing the heritage significance of the Modern Movement in Victoria as described in the Statement of Significance by Don Luxton & Associates, July 2006.
- 3 That pursuant to Section 954 of the *Local Government Act*, City Council adopt a resolution to add the following properties to the *City of Victoria Heritage Registry*:
- 637 Bay Street – Bay Street Hydro Substation
 - 1018 Blanshard Street – City Brokerage Building
 - 1515 Blanshard Street – B.C. Electric Company Building
 - 1809 Blanshard Street – CNIB Building

- #1 Centennial Square – City Hall Annex
- 912 Douglas Street – Ballantyne's Florist Building
- 1080-80 Douglas Street – Bentall Building
- 1601 Douglas Street – Royal Bank Building
- 1230 Government Street – Main Post Office and Federal Building
- 630 Yates Street – Bank of Toronto Building
- 780 Yates Street – Odeon Theatre Building

Pros:

- Provides opportunities to negotiate solutions when modern buildings are threatened with demolition (e.g. Sussex Place)
- Enables the utilization of heritage management tools and incentives which can assist in the preservation of important modern landmarks as part of the history and identity of Victoria
- The public hearing allows an opportunity for other stakeholders and interested citizens to voice their opinion on this issue.
- Broadens the scope of Victoria's heritage program and provides a more comprehensive view of Victoria's social and architectural history

Cons:

- Opposition of property owners
- In some cases, precludes sites from opportunities for redevelopment
- May affect property value

4.b. Resource Impacts

There may be impacts on the City's financial resources in the future if a heritage designation required compensation or, through the provision of financial incentives such as grants or tax exemption to encourage rehabilitation.

4.c. Conclusions/Recommendations

Staff recommends that Council adopt Option (B) as outlined above.

- Victoria's heritage preservation program has a demonstrated track record of balancing the interests of heritage property owners with preservation concerns. A concerted program of financial incentives, both grants and tax exemptions, has resulted in substantial voluntary private investment in heritage building rehabilitation which has benefited both the individual property owner and the community at large.
- Efforts to preserve Modern Movement examples of Victoria's history are consistent with both national and international precedents in this field. These include DOCOMOMO International, an international organization active in 33 countries, dedicated to bringing the significance of the Modern Movement to the attention of public authorities and to advocate for its preservation. In the United States there have been major conferences such as "Preserving the Recent Past" in Washington in 1995 and national publications such as the National Park Service's *Guidelines For Evaluating and Nominating Properties That Have Achieved Significance In The Past Fifty Years*. In 2008, the World Monuments Fund launched "Modernism At Risk" to focus efforts to preserve modern landmarks through a combination of advocacy, public education and architectural conservation

It is important to understand that the proposal is to add these properties to the *Heritage Registry*. The *Heritage Registry* is simply a monitoring tool that allows the City an opportunity to review any proposed actions which would affect the property. By itself, it does not restrict any actions proposed by the property owner. Should a property be proposed for demolition, Council would need to enact a Heritage Designation Bylaw to preserve a building. The *Local Government Act* provides protection for the property owner in Section 969, which provides that where a heritage designation causes a reduction in market value, the municipality must provide compensation to the property owner.

While the City's policy is to try to ensure the property owners' agreement with listing on the *Heritage Registry*, Council has, in the past, added properties to the *Heritage Registry* despite landowner objections. In 1990, Council added approximately 42 properties in the Downtown to the *Heritage Registry* over the registered opposition of the owners. In May 2002, City Council added seven schools to the *Heritage Registry* despite the opposition of the School Board. In the 1970s, City Council designated a number of Downtown churches and houses throughout the City despite owner objections. Given the significant redevelopment pressures on downtown properties, staff recommends the immediate listing of these buildings in order to provide Council with preservation options in the future.

5. Recommendation

1. That Council schedule a non-statutory public hearing to consider the addition of the properties listed in this report to the *Heritage Registry* and to allow affected property owners and other interested stakeholders an opportunity to address Council.
2. That Council adopt the following resolution:
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 - 1060-80 Douglas Street – Bental Building
 - 1501 Douglas Street – Royal Bank Building
 - 1230 Government Street – Main Post Office and Federal Building
 - 630 Yates Street – Bank of Toronto Building
 - 780 Yates Street – Odeon Theatre Building
6. **List of Attachments**
 - A. Letters from other stakeholders
 - B. Letters from affected property owners
 - C. Letters from St. Andrew's Presbyterian Church
 - D. Photos
 - E. Maps
 - F. Statement of Significance of the Modern Movement
 - G. Statements of Significance of each property

Appendix B: Existing Statement of Significance - 1501 Douglas Street

The following is the existing Statement of Significance for 1501 Douglas Street.

Name of the Historic Place: Royal Bank Building

Address: 1501 Douglas Street, Victoria

Date of Construction: 1955

Architect: E.P. Warren, in collaboration with Wade, Stockdill & Armour

Description of the Historic Place

The historic place is a one-storey, flat-roofed, international style stone, aluminum and glass bank opposite Victoria City Hall in Victoria's downtown.

Heritage Value of the Historic Place

Built in 1955 for the Royal Bank of Canada, the value of the building is associated with its progressive architectural style which was commonly commissioned by banking institutions in the post war era. It is valued as one of a small number of commercial structures of the modern International style remaining in downtown Victoria.

Designed in the International style by the Royal Bank of Canada's Montreal-based chief architect E.P. Warren (with construction supervised by local architects Wade, Stockdill, and Armour), the historic place is a modernist allusion to the nineteenth-century temple bank whose architecture was chosen to convey permanence and stability, and more practically was strong and secure.

The bold use of a 'colonnade' of aluminum curtain wall – a distant echo of the encircling colonnade – is a good example of the International style that revered classicism and yet embraced new technology, materials and constructional capabilities.

Built in 1955, and replacing a modest Classical 'temple-fronted' bank building on the adjacent lot to the north (a fragment of which survives), the choice of the clean lines of Modernism for the new building reflects the bank's strategic direction, implying forward thinking and stability. Built in an age of banking prosperity when many financial institutions consolidated their historical cache, the Royal Bank chose to engage the post-depression consumer with an icon of the modern age. The Royal Bank of Canada's Douglas Street branch is also representative of the final manifestation of the traditional banking hall before the electronic revolution.

Character-Defining Elements

Key elements that define the heritage character of the Royal Bank Building are its:

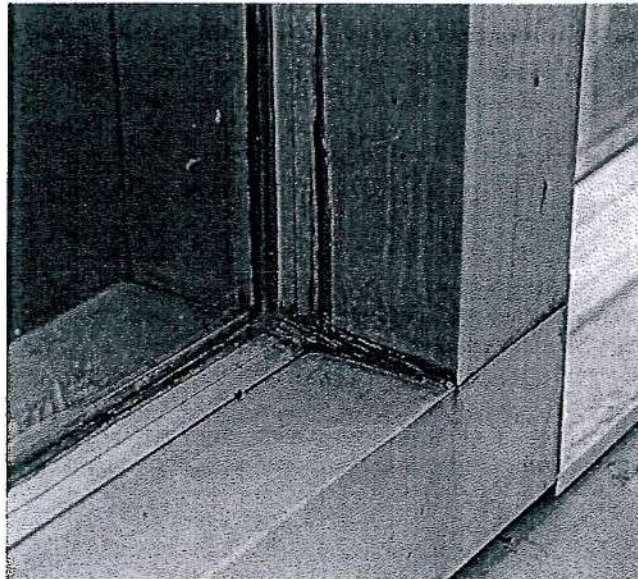
- location on a main city street at a busy intersection;
- corner location;
- classical proportion;
- classical elements including base, aluminum 'colonnade' of curtain wall glazing, slender cornice, and recessed central entrance on short elevation;
- materials of construction including Haddington Island Stone-faced walls and joint pattern, Peribonka (jet black) granite plinth, Verdi Onicate (green flecked black) marble recessed entrance canopy;
- patent (curtain) aluminum glazing comprising wide projecting mullions and slender transoms holding plain glazing, opening lights, and moulded aluminum panels; and
- open banking hall on the interior.

Appendix C: Condition Assessment of 1501 Douglas Street

Introduction

The subject building at 1501 Douglas Street is named in the Heritage Registry of the City of Victoria. Built in 1955, it is categorized as an example of Post-war Modernist Architecture. Photo-documentation and a visual, non-invasive investigation of the condition of the building, the former home of the Royal Bank of Canada branch, was undertaken in the autumn of 2013. The Statement of Significance extant with the Register was consulted and a review of the condition of identified heritage features, the structural system and the building envelope was conducted. Physical inspection and review of the original drawings were carried out in order to identify and record the nature and extent of changes from the original so that the building could be thoroughly documented prior to deconstruction.

The review revealed a varying degree of material quality, with a number of components exhibiting excellent potential for salvage and reuse.



Aluminum and glass curtain wall with caulking on the west facade

Condition of character-defining elements

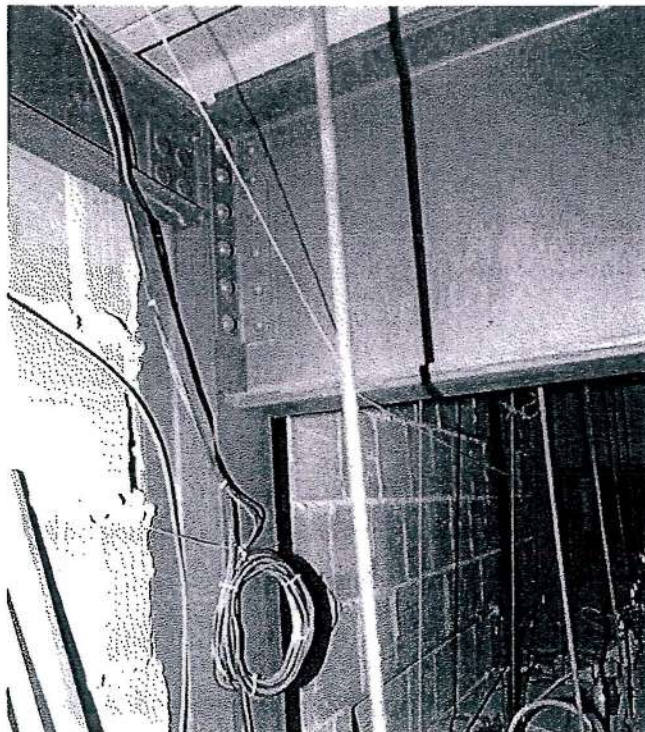
The Statement of Significance 1501 Douglas Street lists its character-defining elements as:

- *location on a main city street at a busy intersection*
- *corner location*
- *classical proportion*
- *classical elements including base, aluminum 'colonnade' of curtain wall glazing, slender cornice, and recessed central entrance on short elevation*
- *materials of construction including Haddington Island Stone-faced walls and joint pattern, Peribonka (jet black) granite plinth, Verdi Oniciate (green flecked black) marble recessed entrance canopy*
- *patent (curtain) aluminum glazing comprising wide projecting mullions and slender transoms holding plain glazing, opening lights, and moulded aluminum panels*
- *open banking hall on the interior*

The curtain wall is a local example of this type of glazing system. The aluminum mullions between glazing units, although oxidized, appear to be in good condition. Connections between glazing units and the aluminum mullions have been heavily caulked at various times. There is evidence of past water ingress into the aluminum curtain wall system increases likelihood of there being corrosion of the enclosed steel structural members. The window system consists of single-pane glazing units secured into the curtain wall by aluminum stops on the interior. The aluminum mullions are not thermally broken and because the thermal break is integral to the mullion extrusion, the entire curtain wall system would have to be replaced to meet current building envelope and LEED certification standards.

The structure of the building is a combination of: concrete foundations; plaster-enclosed steel columns at the basement and main level; exposed steel columns, girders, and beams at the roof level; precast structural concrete plank floor and roof decks. The building appears plumb from most angles with minor mortar cracking and misalignment in the upper portion of the rear brick wall. No corrosion was apparent on the exposed surfaces of the steel members in the roof attic. The condition of the basement foundation walls indicates that the foundations and structure of the building appear stable. The structural system design relies on a welded and bolted steel framework, arranged in a column-and-beam skeletal system with wide spans. The structure would not meet current seismic standards and would require significant modifications that likely would diminish the characteristic open banking hall, mezzanine support and curtain wall design.

Steel structural column, girder, and beam between the roof and finished ceiling



The exterior stone façade includes a black granite base and an andesite cladding. The surfaces of these elements appear to be in a condition that would allow their re-purposing once deconstructed even if the attachment hardware behind is discovered to be faulty or under-designed relative to current standards (which is likely). Brickwork at the east facade appears intact with the exception of one section of bricks 3 to 4 feet from the parapet on the easternmost wall, that appear to be shifting and separating at the mortar joints. Here there is moss growth,

indicating water ingress. At the east facade, caulking at the sills and aluminum mullions between the curtain wall and brick is deteriorated. In some sections the parapet flashing has been surface screwed and caulked in a haphazard repair. There is evidence of water penetration between flashing sections. The coping beneath the flashing along the roof parapet is misaligned. The performance level of exterior wall insulation is well below current standards.

Mechanical systems of the building, including a foundation- draining sump pump and gas-fired boiler, appear to be in working order. Although no testing was undertaken to verify these observations, the basement appears to be dry and free of mold and it is likely that pipes are wrapped in material with asbestos content.

Survey of Materials

A common feature incorporated into the facades of bank buildings of colonial Victoria is that of the granite base. Granite, among the hardest and strongest of stones, was used historically as a foundation system and exposed at ground level to indicate the strength of the building's base. As structural steel and concrete systems evolved, the use of granite at the building's base became increasingly decorative and symbolic. The facades of both the existing bank buildings have polished granite panels as a cosmetic feature.

Interior finishes; lighting components appear to be in serviceable condition, however they would likely not meet current code and energy standards.

Special elements such as the bank-vault doors in the existing building could be interesting artifacts and may be able to be re-purposed as historic artifacts, although they are no longer functional and do not represent architectural heritage value.

Appendix D: 1501 Douglas Street Building Documentation Record

Included with this report is the separate booklet "1501 Douglas Street, Victoria Archival Documentation – April 2014" prepared by Donald Luxton & Associates Inc.. The documentation listed below can be found on the attached DVD.

Architectural Blueprints (1955) - E.P. Warren, Architect and Edward J. Gilbert, P.Eng.

- Basement Plan
- Ground Floor Plan
- Mezzanine Plan
- Roof Plan
- Banking Room Ceiling Plan
- Elevations
- Details No.1
- Details No.2
- Sections 1
- Sections 2

Electrical Blueprints (ca. 1955) - E.P. Warren, Architect and Edward J. Gilbert, P.Eng.

- Electrical Basement Plan Flow Diagram
- Electrical Ground Floor Plan & Legend
- Electrical Main Ceiling Layout and Mezzanine Plan

Foundations Engineering Blueprints (1956) - A.B. Sanderson and Company Ltd. Consulting Engineers

- Foundations (1 of 2)
- Foundations (2 of 2)

Mechanical Blueprints (ca. 1955) - E.P. Warren, Architect

- Mechanical Basement Plan
- Mechanical Ground Floor Plan
- Mechanical Mezzanine Plan

Structural Blueprints (1955) - Dominion Bridge Co. Limited

- Anchor Plan
- Ground Floor Framing
- Mezzanine Floor Framing
- Roof Framing

Vault Design Blueprints (1955) - Sundries Vaults

- Concrete Vault Details
- Vault Cupboard Details

Architectural Drawings for Building Renovation (1991) - Peter H. Neijmeijer, Architect

- Renovations 1 of 2
- Renovations 2 of 2
- Renovations HVAC and Plumbing

Architectural Blueprints for Adjacent Building, known as 'Building on Douglas + Cormorant' (ca.1930) - C. Elwood Watkins, Architect

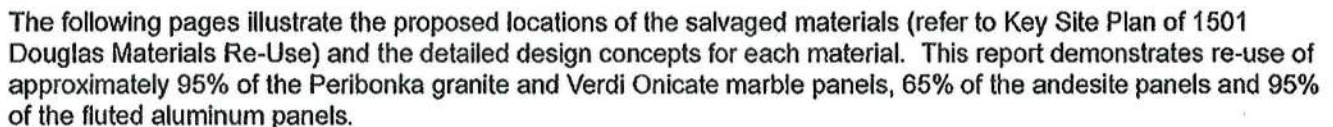
- Building Elevations
- Building Plan and Elevations

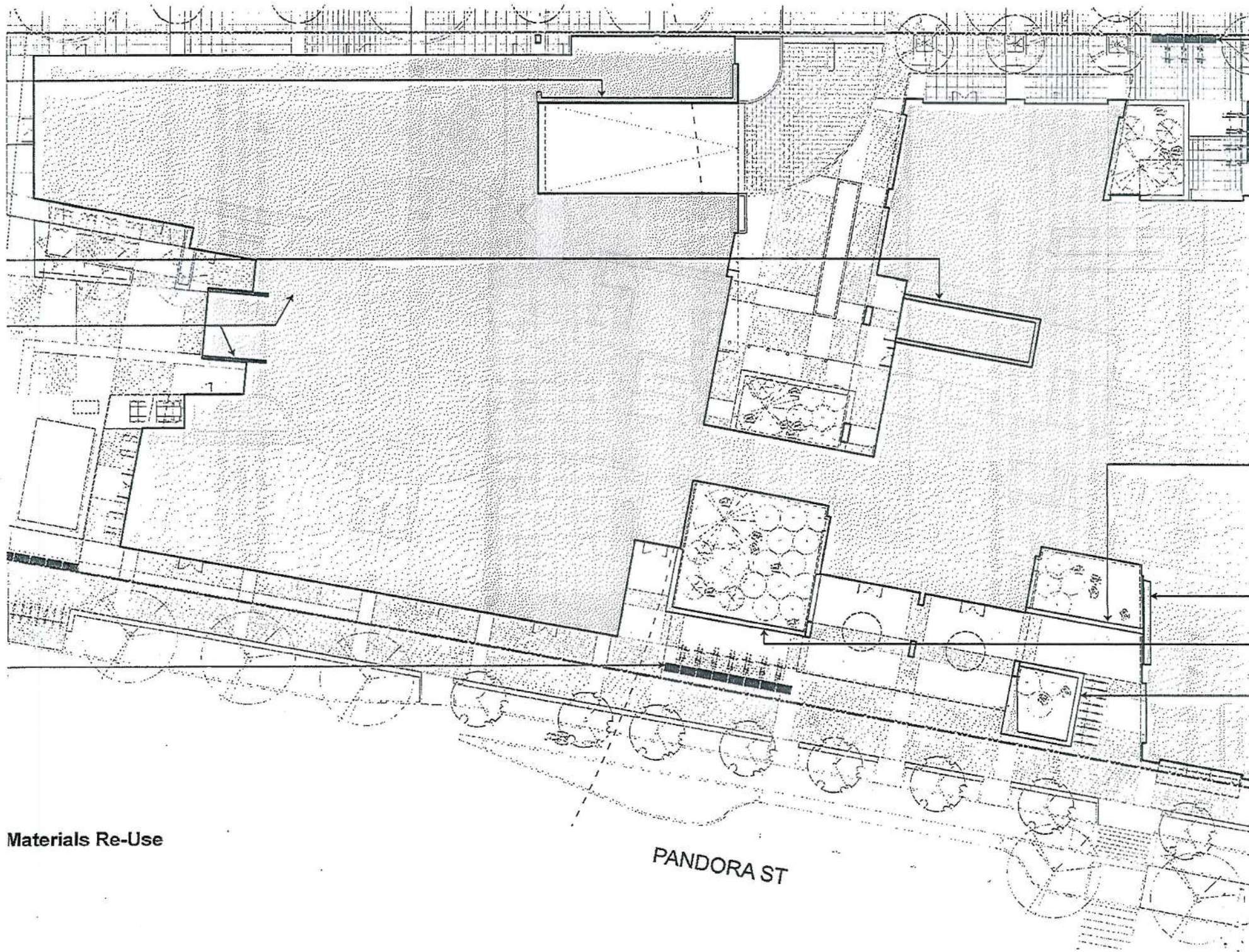
Building Photographs

- Aerial and Satellite Imagery (2013)
- Building Elevation Photos (2013)
- Building Detail Photos (2013)
- Interior Detail Photos (2013)
- Historical Building Photo (1960)

Salvage and re-use of materials

The original locations of these materials are illustrated in the annotated building elevations below:



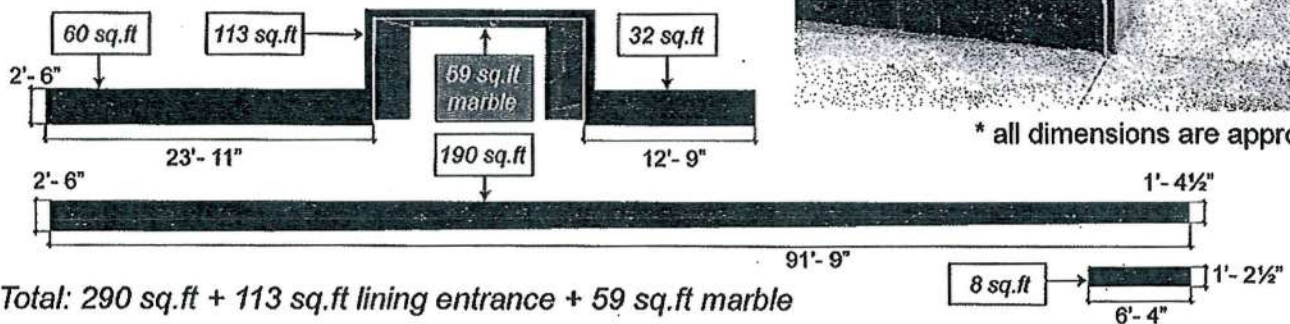


Materials Re-Use

Black Granite & Marble

The polished black Peribonka granite will be salvaged and reused, in combination with the Verdi Onicate marble, to line the new entrance portal fronting the 1515 Douglas Plaza. The salvaged granite will also be repurposed as custom designed seating in the new plazas on Douglas Street and Pandora Avenue; at the corner of Douglas and Pandora, the new benches will be arranged along the line of the existing building as a way to commemorate and make a physical link with the history of the site. Additional custom bench / bicycle storage elements will incorporate the salvaged granite into the Cormorant Street end of the Through-Block Walkway, at the eastern portion of the site. Of the existing 51 pieces of black granite, 47 will be re-used; of 9 existing marble pieces, 8 will be re-used (anticipated salvage rate 95% for these materials).

Inventory:



Typical Panels:

3'-10" wide x 2'-6" tall x 4" thick



Total: 34 panels (31 anticipated re-use)

Panels from Entrance Portal (8" thick):

3'-2" squares, 2'-7" squares, and 2'-7" x 1'-5" rectangles



Total: 5 large squares (4 anticipated re-use) + 6 small squares + 6 rectangles

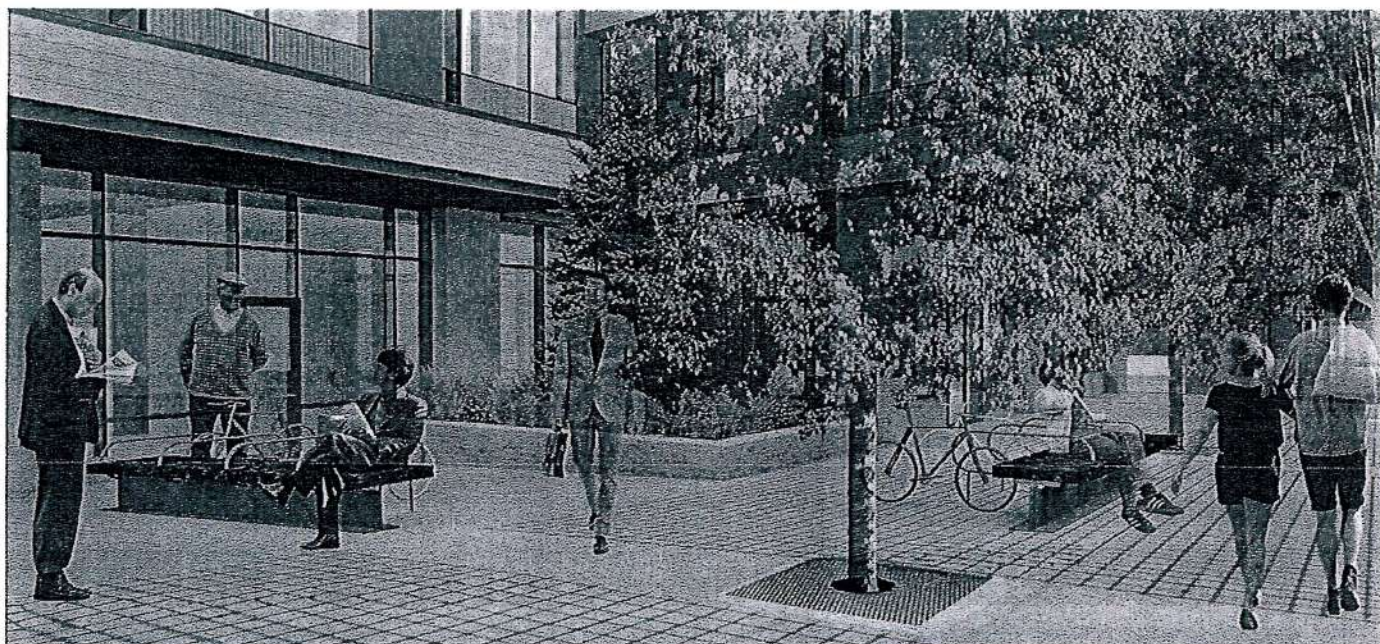
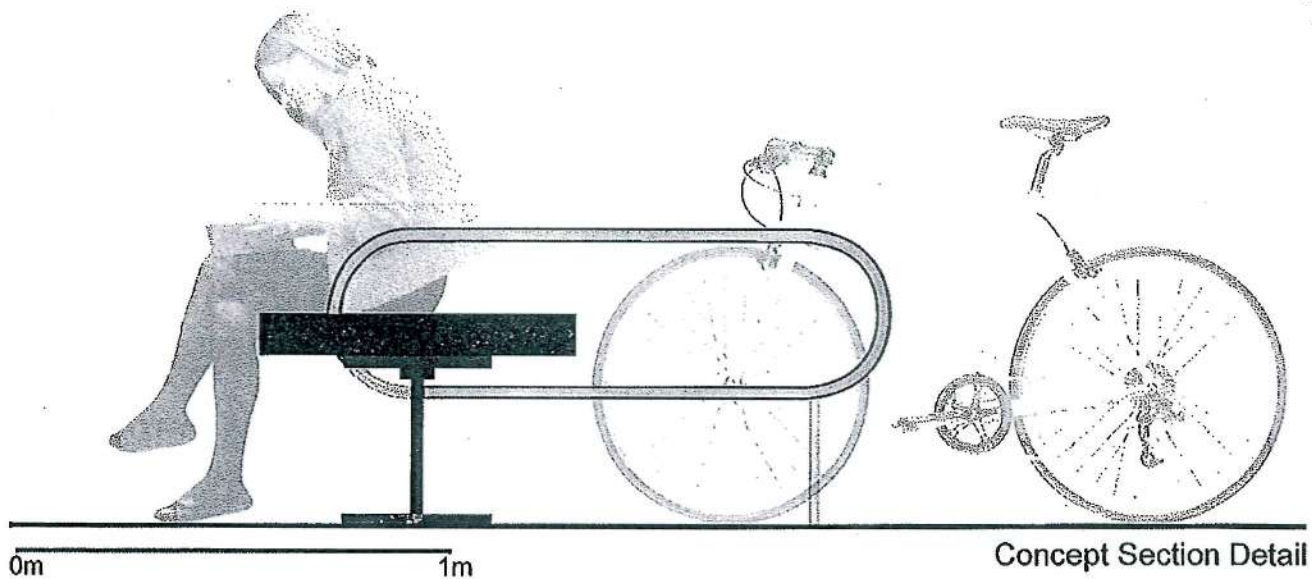
Marble Panels from Entrance Portal (7/8" thick):

2'-5" wide x 3' tall, 3'-6" wide x 9" tall

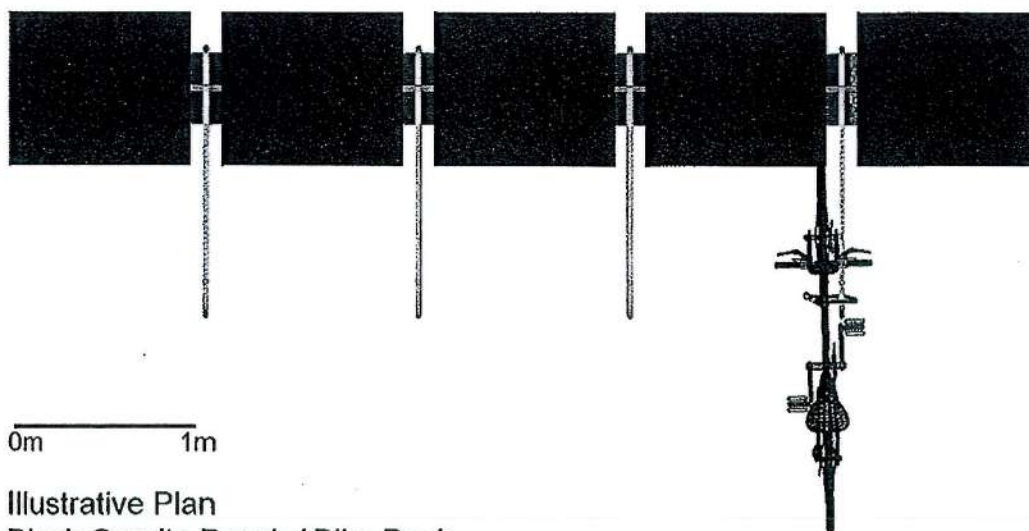


Total: 6 large panels (5 anticipated re-use) + 3 small panels

[greyed panels indicate allowance for damage etc.]



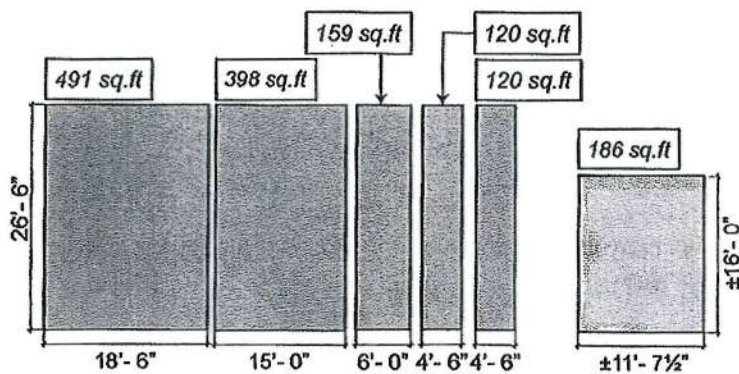
Illustrative View



Haddington Island Andesite

The salvaged Haddington Island andesite stone panels will be reused in the seating / planter walls of the new complex at the 750 Pandora Plaza. Taking advantage of the varying shapes and thicknesses of the material, the andesite blocks will form a patterned accent wall adjacent to the main 750 Pandora entrance. Of 294 existing pieces, 192 will be re-used in these plaza features (anticipated salvage rate 65% due to the extent of damage in the existing condition).

Inventory:



Total: 1288 sq.ft + 186 sq.ft of 2" depth

Typical Panels:

2'-3" wide x 3'-0" tall x 4" thick



Total: 140 panels (76 anticipated re-use)

Thin Panels (2" thick):



Total: 20 thin panels (10 anticipated re-use)

Typical Blocks:

27" wide x 8" tall x 4" thick

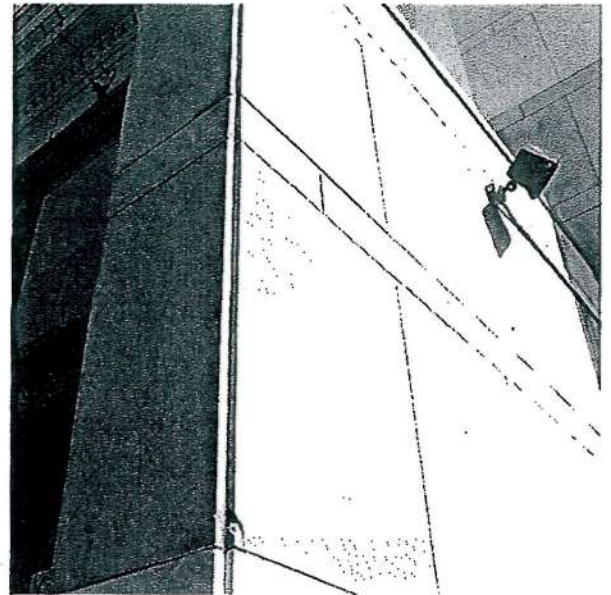


Total: 108 blocks (90 anticipated re-use)

Thin Blocks (2" thick):

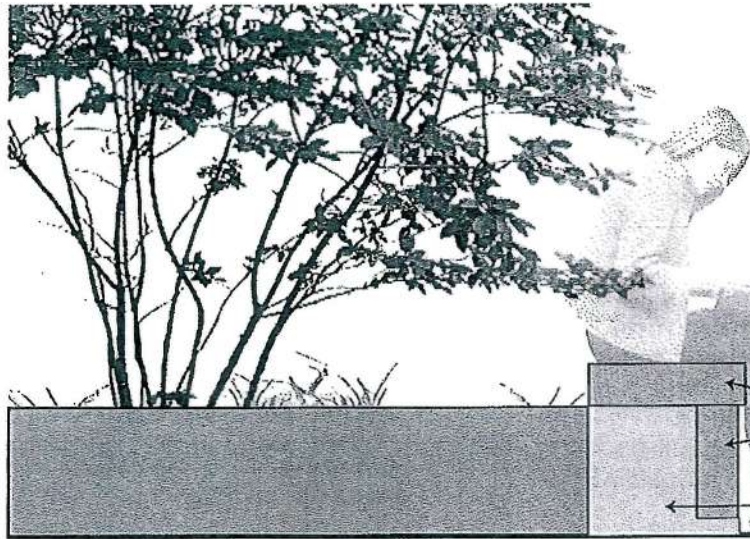


Total: 26 thin blocks (16 anticipated re-use)



* all dimensions are approximate

[greyed panels indicate allowance for damage etc.]



Integrated Re-use / Re-purposing:
Used to face the planter box benches at the Pandora entrance.

Cladding of a full-height feature wall at the Pandora entrance.

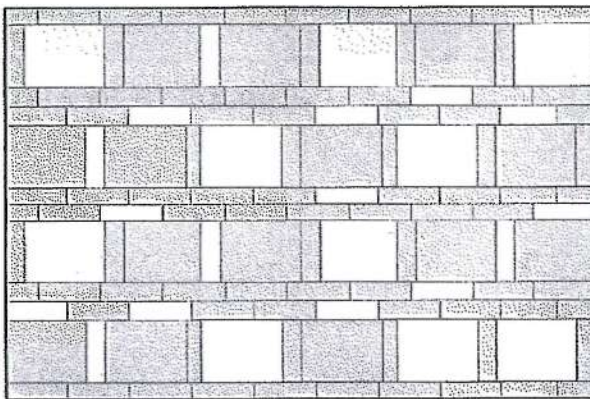
Repurposed Stone Panel

Concrete

Concept Section Detail

0m 1m

Illustrative Elevation



Wall Cladding:

4" panels: 14

2" panels: 10

4" blocks: 85

2" blocks: 16

Concept sketch showing pattern of stone panels applied to exterior wall

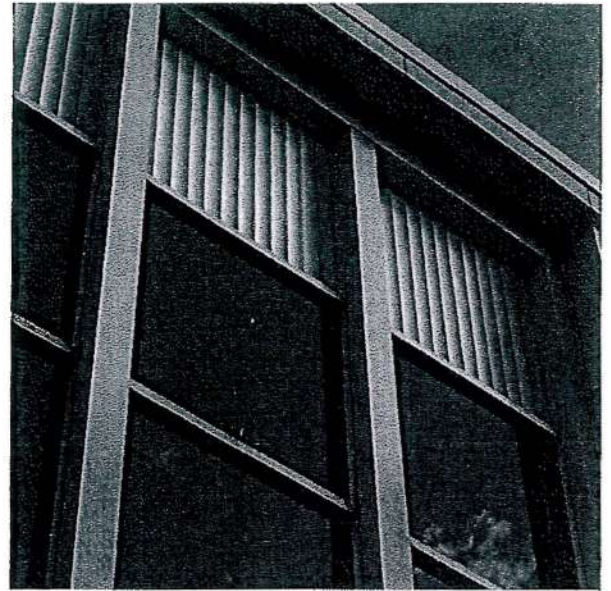
0m 1m



Illustrative View

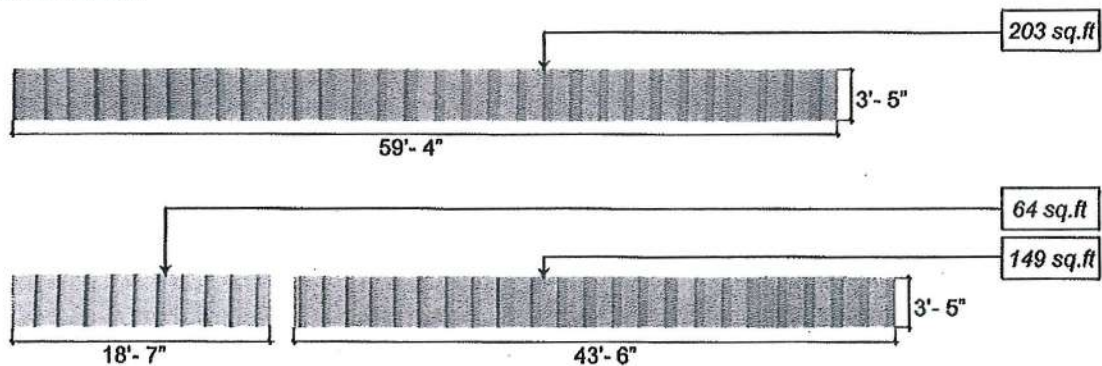
Fluted Aluminum Panels

The decorative aluminum spandrel panels located on top of the curtain walls will be salvaged and re-used to make decorative wall features in the new ground floor bicycle rooms. The panels will be placed on the wall above the bicycles, so that they are visible to the exterior and reference the original placement of the panels at the upper spandrels. Of 33 existing panels, 31 will be re-used in the new project (anticipated salvage rate 95%).



* all dimensions are approximate

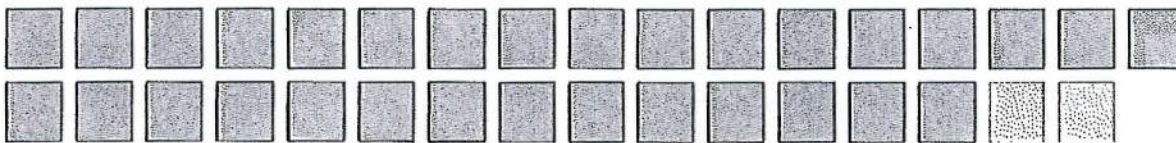
Inventory:



Total: 416 sq.ft

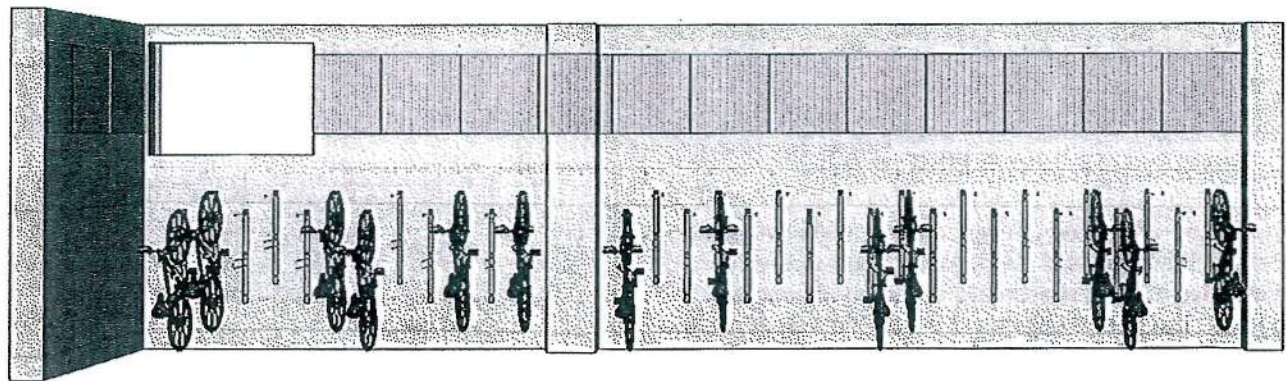
Typical Panels:

3'-5" wide x 3'-5" tall

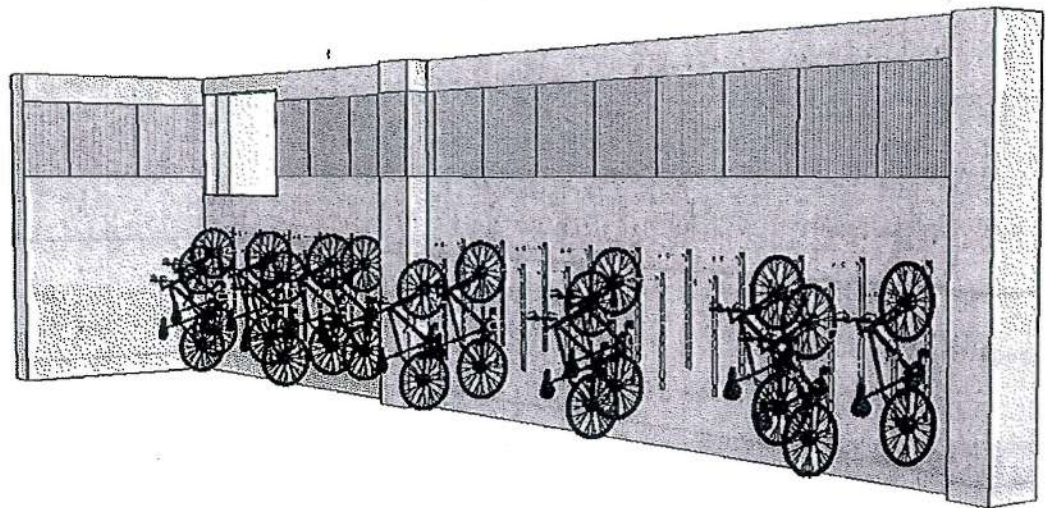


Total: 33 (31 anticipated re-use)

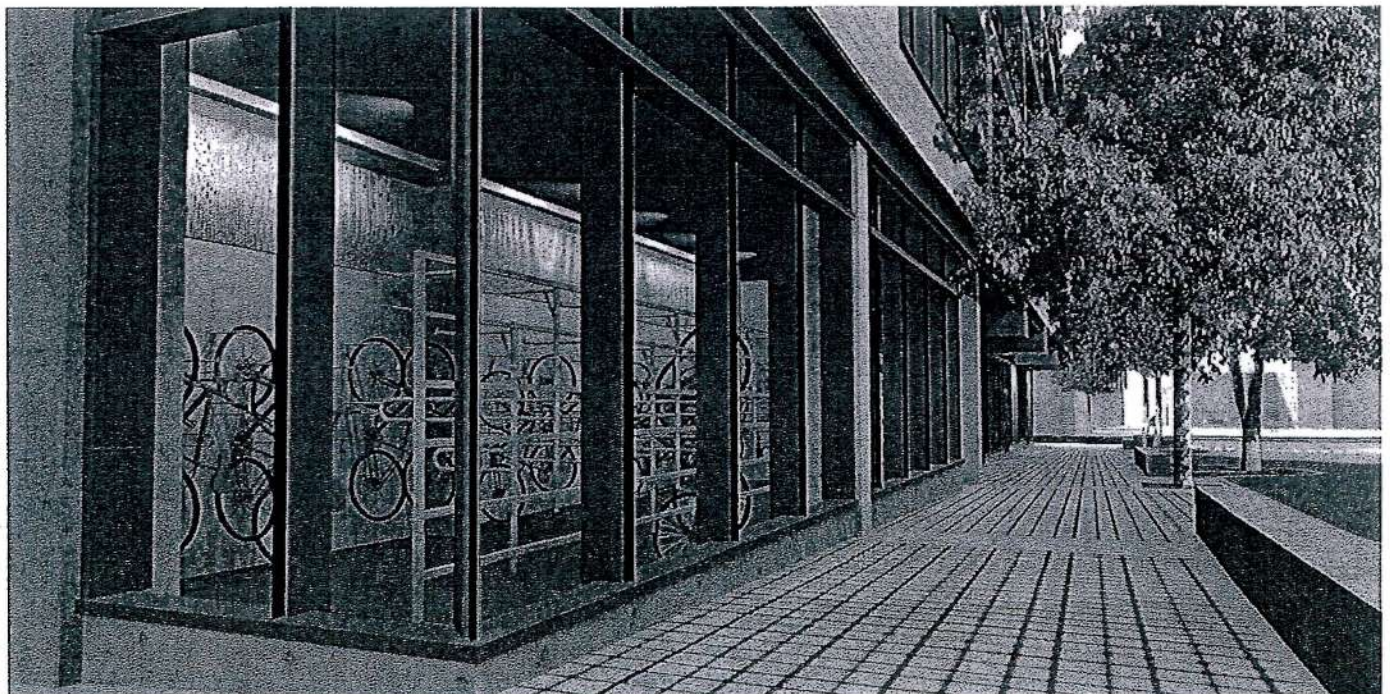
[greyed panels indicate allowance for damage etc.]



Illustrative Interior Elevation

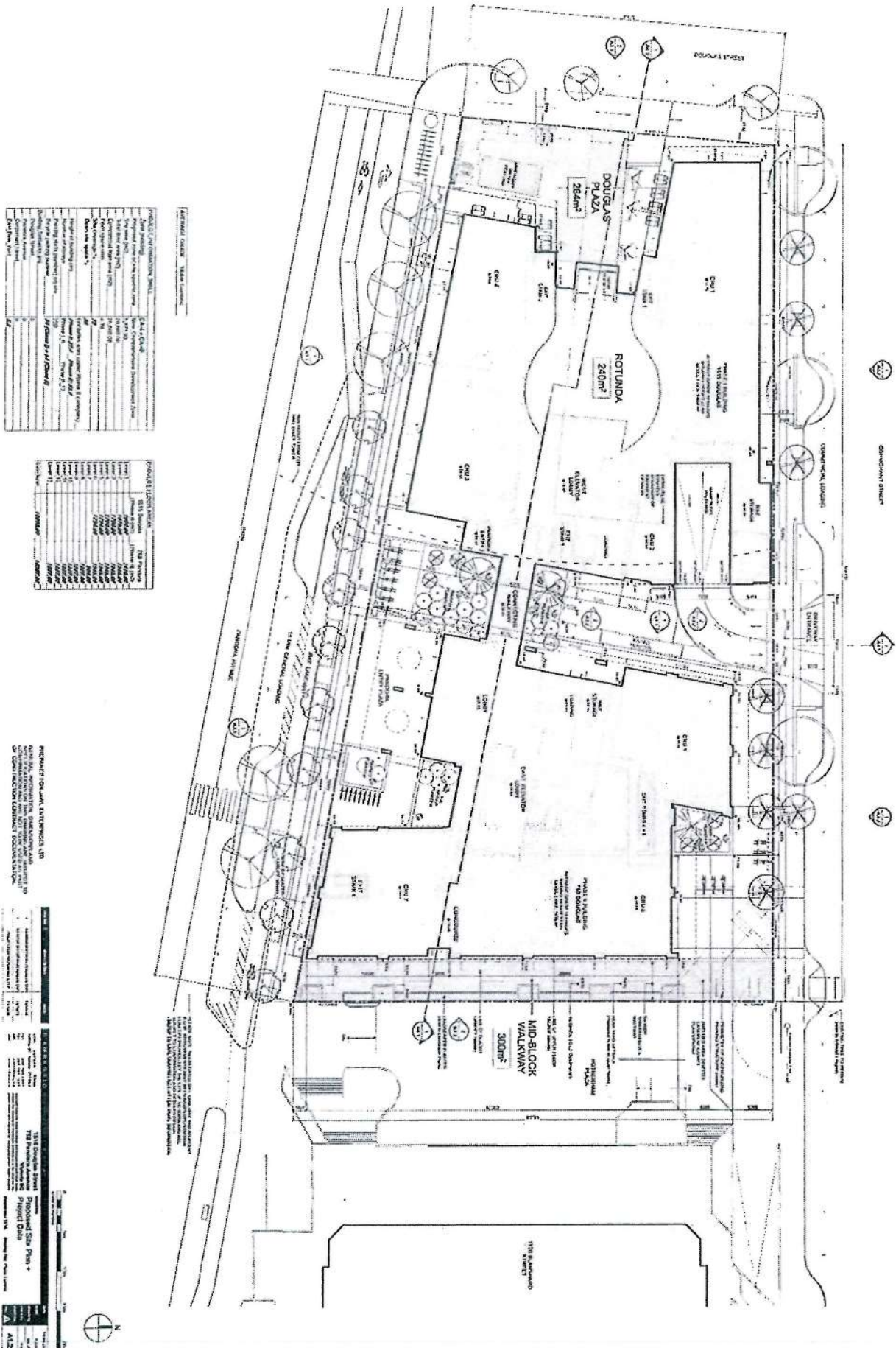


Interior View



Exterior View

SCHEDULE "F"



LAND TITLE ACT

FORM C (Section 233) CHARGE

GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 8 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

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

JAWL & BUNDON

Barristers & Solicitors

4th Floor, 1007 Fort Street

Victoria

BC V8V 3K5

(250)385-5787

MSJ/1515 Douglas-SRW/Plaza

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

029-049-369

LOT 1 OF LOTS 1247, 1248 AND 1257, VICTORIA CITY, PLAN EPP27886

STC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

SEE SCHEDULE

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

(a) ☐ Filed Standard Charge Terms D.F. No.(b) ☒ Express Charge Terms Annexed as Part 2

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

5. TRANSFEROR(S):

JAWL ENTERPRISES LTD. (INC. NO. BC0743917) AS TO THE STATUTORY RIGHT OF WAY
 _____, AS TO THE PRIORITY AGREEMENT

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

THE CORPORATION OF THE CITY OF VICTORIA

#1 CENTENNIAL SQUARE

VICTORIA

BRITISH COLUMBIA

V8W 1P6

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

N/A

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

Officer Signature(s)

Barrister & Solicitor

4th Floor, 1007 Fort Street

Victoria, BC V8V 3K5

Execution Date		
Y	M	D
14		

Transferor(s) Signature(s)

JAWL ENTERPRISES LTD. by
 its authorized signatory:

Print Name: ROBERT JAWL

OFFICER CERTIFICATION:

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

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

PAGE 2 of 8 pages

Officer Signature(s)

Execution Date

Y M D

Transferor / Borrower / Party Signature(s)

The Corporation of the City of Victoria
by its authorized signatory(ies):

Name: Mayor

_____, by its
authorized signatory(ies):

Name:

OFFICER CERTIFICATION:

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

LAND TITLE ACT
FORM E

SCHEDULE

PAGE 3 OF 8 PAGES

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Statutory Right of Way

Paragraph 1.1, Page 2

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Paragraph 4, Page 4

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Statutory Right of Way – Douglas Plaza

TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. The Transferor is the registered owner of the following land in the Province of British Columbia:

PID: 029-049-369
Lot 1 of Lots 1247, 1248 and 1257, Victoria City, Plan EPP27886

(the "Lands");
- B. The Transferor proposes to proceed with the development of the Lands in two phases and has agreed to provide certain amenities for the better integration of the development into its neighbourhood;
- C. The Transferee is The Corporation of the City of Victoria;
- D. The Transferee wishes to be able to access, for itself and all members of the public, a public plaza developed and maintained in perpetuity over the Lands;
- E. The Transferor has agreed to grant a Statutory Right of Way on the terms hereinafter set forth;
- F. It is necessary for the operation and maintenance of the Transferee's undertaking of a public plaza (the "Douglas Plaza") for the enjoyment of the general public that a right of way be established in accordance with this document;

NOW, THEREFORE, THIS INDENTURE WITNESSES that in consideration of the sum of Ten (\$10.00) Dollars of lawful money of Canada, now paid by the Transferee to the Transferor and other valuable consideration (the receipt and sufficiency of which is hereby acknowledged by the Transferor), and in consideration of the covenants hereinafter contained:

1.0 STATUTORY RIGHT OF WAY

- 1.1 Pursuant to Section 218 of the *Land Title Act*, the Transferor does hereby grant, convey, confirm and transfer, in perpetuity, to the Transferee, its successors and assigns, and all of its employees, agents, servants, licensees and invitees including all members of the public who might so desire, at all times by day or night, the full, free and uninterrupted right, licence, liberty, privilege, permission and right of way, for the purpose of a public plaza, to enter, use, go, return, pass over and across that part of the Lands (the "Right of Way Area") shown as "Statutory Right of Way Area ____" on an Explanatory Plan

registered at the Victoria Land Title Office under number _____, a reduced copy of which is attached hereto as Schedule A.

- 1.2 The Transferor will permit the Transferee and every member of the public to peaceably hold and enjoy the rights hereby granted, provided however that notwithstanding the foregoing the Transferor and those claiming authority through the Transferor, and their respective agents may bar entry to or eject from the Douglas Plaza any person who:
- (a) acts in a manner disruptive to the business operations of the tenants in the buildings on the Lands;
 - (b) acts in a disorderly or offensive manner, or interferes with, threatens or obstructs any other person;
 - (c) acts in a manner that damages or poses a threat to damage any landscaping or improvements on the Lands;
 - (d) loiters or appears to be asleep or unconscious; or
 - (e) otherwise creates a nuisance.

2.0 GENERAL

- 2.1 For certainty, nothing in this Agreement relieves the Transferor of any obligation or duty in relation to the maintenance of the Transferor's Lands, including the Right of Way, and whether arising or imposed by common law, statute or agreement.
- 2.2 The Transferor and the Transferee agree that enforcement of this Agreement shall be entirely within the discretion of the Transferee and that the execution and registration of this Agreement against title to the Lands shall not be interpreted as creating any duty on the part of the Transferee to the Transferor or to any other person to enforce any provision or prevent or restrain the breach of any provision of this Agreement.
- 2.3 The Transferor shall indemnify and save harmless the Transferee from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which anyone has or may have, whether as owner, occupier or user of the Lands, or by a person who has an interest in or comes onto the Lands, or otherwise, which the Transferee incurs as a result of any loss or damage or injury, including economic loss, arising out of or connected with:
- (a) the breach of any covenant in this Agreement;
 - (b) the use of the Lands contemplated under this Agreement; and

- (c) restrictions or requirements under this Agreement.
- 2.4 The Transferor hereby releases and forever discharges the Transferee of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which the Transferor can or may have against the Transferee for any loss or damage or injury, including economic loss, that the Transferor may sustain or suffer arising out of or connected with:
- (a) the breach of any covenant in this Agreement;
 - (b) the use of the Lands contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
- 2.5 At the Transferor's expense, the Transferor must do everything necessary to secure priority of registration and interest for this Agreement over all registered and pending charges and encumbrances of a financial nature against the Lands.
- 2.6 This Agreement does not
- (a) affect or limit the discretion, rights or powers of the Transferee under any enactment (as defined in the *Interpretation Act*, R.S.B.C. 1996, c. 238, on the reference date of this Agreement) or at common law in relation to the Transferor or the Lands all of which may be exercised or enforced by the Transferee as if this Agreement did not exist,
 - (b) affect or limit any enactment relating to the use or subdivision of the Lands, or
 - (c) relieve the Transferor from complying with any public or private enactment, including in relation to the use or subdivision of the Lands.
- 2.7 Where the Transferee is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Transferor agrees that the Transferee is under no public law duty of fairness or natural justice in that regard and agrees that the Transferee may do any of those things in the same manner as if it were a private party and not a public body.
- 2.8 No part of the title in fee simple to the soil shall pass to or be vested in the Transferee under or by virtue of these presents and the Transferor may fully use and enjoy all of the Lands subject only to the rights and restrictions herein contained.
- 2.9 If the Transferor is in breach of any provision of this Agreement, including section 2.0, the Transferee may but is under no obligation to inspect, repair and maintain the Right of Way and Douglas Plaza, including removal of any buildings, structures or improvements placed without consent, at the expense of the Transferor.

- 2.10 The covenants herein shall be covenants running with the Lands upon which the Right of Way is situated and none of the covenants herein contained shall be personal or binding upon the parties hereto, save and except during the Transferor's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Transferor shall have an interest, but that the Lands, nevertheless, shall be and remain at all times charged herewith.
- 2.11 The parties hereto shall do and cause to be done all things and execute and cause to be executed all documents which may be necessary or desirable to give proper effect to the intention of this instrument.
- 2.12 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their successors and assigns and their heirs and administrators respectively.
- 2.13 Whenever the singular or masculine are used they shall be construed as including the plural, feminine or body corporate where the context requires.

3.0 PRIORITY AGREEMENT

- 3.1 _____, the registered holder of a charge by way of _____ registered against the Lands, which said charge is registered in the Land Title Office at Victoria, British Columbia, under _____, for and in consideration of the sum of Ten (\$10.00) Dollars paid by the Transferee to the said Chargeholder (the receipt of whereof is hereby acknowledged), agrees with the Transferee, its successors and assigns, that the Statutory Right of Way shall be an encumbrance upon the Lands in priority to the said charge in the same manner and to the same effect as if it had been dated and registered prior to the said charge.

The parties hereto acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D attached hereto.

SCHEDULE "A"

**(Reduced Copy of Explanatory Plan Showing
Statutory Right of Way Area)**

LAND TITLE ACT
FORM C (Section 233) CHARGE
GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 8 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

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

JAWL & BUNDON

Barristers & Solicitors

4th Floor, 1007 Fort Street

Victoria

BC V8V 3K5

(250)385-5787

MSJ/1515 Douglas-SRWrotunda

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

029-049-369 LOT 1 OF LOTS 1247, 1248 AND 1257, VICTORIA CITY, PLAN EPP27886

STC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

SEE SCHEDULE

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

(a) ☐ Filed Standard Charge Terms D.F. No.(b) ☒ Express Charge Terms Annexed as Part 2

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

5. TRANSFEROR(S):

JAWL ENTERPRISES LTD. (INC. NO. BC0743917) AS TO THE STATUTORY RIGHT OF WAY
_____, AS TO THE PRIORITY AGREEMENT

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

THE CORPORATION OF THE CITY OF VICTORIA

#1 CENTENNIAL SQUARE

VICTORIA

BRITISH COLUMBIA

V8W 1P6

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

N/A

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

Officer Signature(s)

Barrister & Solicitor

4th Floor, 1007 Fort Street

Victoria, BC V8V 3K5

Execution Date		
Y	M	D
14		

Transferor(s) Signature(s)

JAWL ENTERPRISES LTD. by
its authorized signatory:

Print Name: ROBERT JAWL

OFFICER CERTIFICATION:

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

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

PAGE 2 of 8 pages

Officer Signature(s)

Execution Date

Y M D

Transferor / Borrower / Party Signature(s)

The Corporation of the City of Victoria
by its authorized signatory(ies):

Name: Mayor

_____, by its
authorized signatory(ies):

Name:

OFFICER CERTIFICATION:

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

LAND TITLE ACT
FORM E

SCHEDULE

PAGE 3 OF 8 PAGES

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Statutory Right of Way

Paragraph 1.1, Page 2

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Paragraph 4, Page 4

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Statutory Right of Way – Rotunda

TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. The Transferor is the registered owner of the following land in the Province of British Columbia:

PID: 029-049-369
Lot 1 of Lots 1247, 1248 and 1257, Victoria City, Plan EPP27886

(the "Lands");
- B. The Transferor proposes to proceed with the development of the Lands in two phases and has agreed to provide certain amenities for the better integration of the development into its neighbourhood;
- C. The Transferee is The Corporation of the City of Victoria;
- D. The Transferee wishes to be able to access, for itself and all members of the public, a plaza in the rotunda area of the building to be constructed in the first phase of the development, and maintained in perpetuity over the Lands;
- E. The Transferor has agreed to grant a Statutory Right of Way on the terms hereinafter set forth;
- F. It is necessary for the operation and maintenance of the Transferee's undertaking of a public plaza (the "Rotunda") for the enjoyment of the general public that a right of way be established in accordance with this document;

NOW, THEREFORE, THIS INDENTURE WITNESSES that in consideration of the sum of Ten (\$10.00) Dollars of lawful money of Canada, now paid by the Transferee to the Transferor and other valuable consideration (the receipt and sufficiency of which is hereby acknowledged by the Transferor), and in consideration of the covenants hereinafter contained:

1.0 STATUTORY RIGHT OF WAY

- 1.1 Pursuant to Section 218 of the *Land Title Act*, the Transferor does hereby grant, convey, confirm and transfer, in perpetuity, to the Transferee, its successors and assigns, and all of its employees, agents, servants, licensees and invitees including all members of the public who might so desire, between the hours of 8:00 a.m. and 5:00 p.m. on every day but Saturdays, Sundays and statutory holidays, the full, free and uninterrupted right,

licence, liberty, privilege, permission and right of way, for the purpose of a public plaza, to enter, use, go, return, pass over and across that part of the Lands (the "Right of Way Area") shown as "Statutory Right of Way Area ____" on an Explanatory Plan registered at the Victoria Land Title Office under number _____, a reduced copy of which is attached hereto as Schedule A.

- 1.2 The Transferor will permit the Transferee and every member of the public to peaceably hold and enjoy the rights hereby granted, provided however that notwithstanding the foregoing the Transferor and those claiming authority through the Transferor, and their respective agents may bar entry to or eject from the Rotunda any person who:
- (a) acts in a manner disruptive to the business operations of the tenants in the buildings on the Lands;
 - (b) acts in a disorderly or offensive manner, or interferes with, threatens or obstructs any other person;
 - (c) acts in a manner that damages or poses a threat to damage any landscaping or improvements on the Lands;
 - (d) loiters or appears to be asleep or unconscious; or
 - (e) otherwise creates a nuisance.

2.0 GENERAL

- 2.1 For certainty, nothing in this Agreement relieves the Transferor of any obligation or duty in relation to the maintenance of the Transferor's Lands, including the Right of Way, and whether arising or imposed by common law, statute or agreement.
- 2.2 The Transferor and the Transferee agree that enforcement of this Agreement shall be entirely within the discretion of the Transferee and that the execution and registration of this Agreement against title to the Lands shall not be interpreted as creating any duty on the part of the Transferee to the Transferor or to any other person to enforce any provision or prevent or restrain the breach of any provision of this Agreement.
- 2.3 The Transferor shall indemnify and save harmless the Transferee from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which anyone has or may have, whether as owner, occupier or user of the Lands, or by a person who has an interest in or comes onto the Lands, or otherwise, which the Transferee incurs as a result of any loss or damage or injury, including economic loss, arising out of or connected with:
- (a) the breach of any covenant in this Agreement;

- (b) the use of the Lands contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
- 2.4 The Transferor hereby releases and forever discharges the Transferee of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which the Transferor can or may have against the Transferee for any loss or damage or injury, including economic loss, that the Transferor may sustain or suffer arising out of or connected with:
 - (a) the breach of any covenant in this Agreement;
 - (b) the use of the Lands contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
- 2.5 At the Transferor's expense, the Transferor must do everything necessary to secure priority of registration and interest for this Agreement over all registered and pending charges and encumbrances of a financial nature against the Lands.
- 2.6 This Agreement does not
 - (a) affect or limit the discretion, rights or powers of the Transferee under any enactment (as defined in the *Interpretation Act*, R.S.B.C. 1996, c. 238, on the reference date of this Agreement) or at common law in relation to the Transferor or the Lands all of which may be exercised or enforced by the Transferee as if this Agreement did not exist,
 - (b) affect or limit any enactment relating to the use or subdivision of the Lands, or
 - (c) relieve the Transferor from complying with any public or private enactment, including in relation to the use or subdivision of the Lands.
- 2.7 Where the Transferee is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Transferor agrees that the Transferee is under no public law duty of fairness or natural justice in that regard and agrees that the Transferee may do any of those things in the same manner as if it were a private party and not a public body.
- 2.8 No part of the title in fee simple to the soil shall pass to or be vested in the Transferee under or by virtue of these presents and the Transferor may fully use and enjoy all of the Lands subject only to the rights and restrictions herein contained.
- 2.9 If the Transferor is in breach of any provision of this Agreement, including section 2.0,

the Transferee may but is under no obligation to inspect, repair and maintain the Right of Way and Rotunda, including removal of any buildings, structures or improvements placed without consent, at the expense of the Transferor.

- 2.10 The covenants herein shall be covenants running with the Lands upon which the Right of Way is situated and none of the covenants herein contained shall be personal or binding upon the parties hereto, save and except during the Transferor's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Transferor shall have an interest, but that the Lands, nevertheless, shall be and remain at all times charged herewith.
- 2.11 The parties hereto shall do and cause to be done all things and execute and cause to be executed all documents which may be necessary or desirable to give proper effect to the intention of this instrument.
- 2.12 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their successors and assigns and their heirs and administrators respectively.
- 2.13 Whenever the singular or masculine are used they shall be construed as including the plural, feminine or body corporate where the context requires.

3.0 PRIORITY AGREEMENT

- 3.1 _____, the registered holder of a charge by way of _____ registered against the Lands, which said charge is registered in the Land Title Office at Victoria, British Columbia, under _____, for and in consideration of the sum of Ten (\$10.00) Dollars paid by the Transferee to the said Chargeholder (the receipt of whereof is hereby acknowledged), agrees with the Transferee, its successors and assigns, that the Statutory Right of Way shall be an encumbrance upon the Lands in priority to the said charge in the same manner and to the same effect as if it had been dated and registered prior to the said charge.

The parties hereto acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D attached hereto.

SCHEDULE "A"

**(Reduced Copy of Explanatory Plan Showing
Statutory Right of Way Area)**

SCHEDULE "I"

LAND TITLE ACT

FORM C (Section 233) CHARGE

GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 9 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

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

JAWL & BUNDON

Barristers & Solicitors

4th Floor, 1007 Fort Street

Victoria

BC V8V 3K5

(250)385-5787

MSJ/1515 Douglas-SRWwalkway

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

029-049-369

LOT 1 OF LOTS 1247, 1248 AND 1257, VICTORIA CITY, PLAN EPP27886

STC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

SEE SCHEDULE

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

(a) ☐ Filed Standard Charge Terms D.F. No.(b) ☒ Express Charge Terms Annexed as Part 2

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

5. TRANSFEROR(S):

JAWL ENTERPRISES LTD. (INC. NO. BC0743917) AS TO THE STATUTORY RIGHT OF WAY AND COVENANT, _____, AS TO THE PRIORITY AGREEMENT

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

THE CORPORATION OF THE CITY OF VICTORIA

#1 CENTENNIAL SQUARE

VICTORIA

BRITISH COLUMBIA

V8W 1P6

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

N/A

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

Officer Signature(s)

Barrister & Solicitor

4th Floor, 1007 Fort Street

Victoria, BC V8V 3K5

Execution Date		
Y	M	D
14		

Transferor(s) Signature(s)

JAWL ENTERPRISES LTD. by
its authorized signatory:

Print Name: ROBERT JAWL

OFFICER CERTIFICATION:

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

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

PAGE 2 of 9 pages

Officer Signature(s)

Execution Date

Y M D

Transferor / Borrower / Party Signature(s)

The Corporation of the City of Victoria
by its authorized signatory(ies):

Name: Mayor

_____, by its
authorized signatory(ies):

Name:

OFFICER CERTIFICATION:

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

LAND TITLE ACT
FORM E

SCHEDULE

PAGE 3 OF 9 PAGES

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Statutory Right of Way

Paragraph 1.1, Page 2

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Covenant

Paragraph 2.1, Page 2

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Paragraph 4, Page 4

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**Statutory Right of Way – Mid-Block Walkway
s.219 Covenant**

TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. The Transferor is the registered owner of the following land in the Province of British Columbia:

PID: 029-049-369
Lot 1 of Lots 1247, 1248 and 1257, Victoria City, Plan EPP27886

(the "Lands");
- B. The Transferor proposes to proceed with the development of the Lands in two phases and has agreed to provide certain amenities for the better integration of the development into its neighbourhood;
- C. The Transferee is The Corporation of the City of Victoria;
- D. The Transferee wishes to be able to access, for itself and all members of the public, a public mid-block pedestrian walkway developed and maintained in perpetuity over the Lands;
- E. The Transferor has agreed to grant a Statutory Right of Way on the terms hereinafter set forth;
- F. It is necessary for the operation and maintenance of the Transferee's undertaking of a public pedestrian walkway (the "Mid-Block Walkway") for the enjoyment of the general public that a right of way be established in accordance with this document;
- G. The Transferor has agreed to register the a restrictive covenant under Section 219 of the *Land Title Act*, on the title to the Lands to secure the commitment of the Transferor to construct and maintain the Mid-Block Walkway;
- H. The Transferee has the authority to accept the covenants under s.219 of the *Land Title Act*;

NOW, THEREFORE, THIS INDENTURE WITNESSES that in consideration of the sum of Ten (\$10.00) Dollars of lawful money of Canada, now paid by the Transferee to the Transferor and other valuable consideration (the receipt and sufficiency of which is hereby acknowledged by the Transferor), and in consideration of the covenants hereinafter contained:

1.0 STATUTORY RIGHT OF WAY

- 1.1 Pursuant to Section 218 of the *Land Title Act*, the Transferor does hereby grant, convey, confirm and transfer, in perpetuity, to the Transferee, its successors and assigns, and all of its employees, agents, servants, licensees and invitees including all members of the public who might so desire, at all times by day or night, the full, free and uninterrupted right, licence, liberty, privilege, permission and right of way, for the purpose of a mid-block pedestrian walkway, to enter, use, go, return, pass over and across that part of the Lands (the "Right of Way Area") shown as "Statutory Right of Way Area ____" on an Explanatory Plan registered at the Victoria Land Title Office under number _____, a reduced copy of which is attached hereto as Schedule A.
- 1.2 The Transferor will permit the Transferee and every member of the public to peaceably hold and enjoy the rights hereby granted, provided however that notwithstanding the foregoing the Transferor and those claiming authority through the Transferor, and their respective agents may bar entry to or eject from the Mid-Block Walkway any person who:
- (a) acts in a manner disruptive to the business operations of the tenants in the buildings on the Lands;
 - (b) acts in a disorderly or offensive manner, or interferes with, threatens or obstructs any other person;
 - (c) acts in a manner that damages or poses a threat to damage any landscaping or improvements on the Lands;
 - (d) loiters or appears to be asleep or unconscious; or
 - (e) otherwise creates a nuisance.

2.0 SECTION 219 RESTRICTIVE COVENANT

- 2.1 Pursuant to Section 219 of the *Land Title Act*, in respect of the use of the Lands, the Transferor will construct, develop and improve the Mid-Block Walkway on the Right of Way Area, and keep and maintain it in good condition and repair in accordance with City standards and policies, as amended from time to time.
- 2.2 The Transferor covenants and agrees that it will not occupy or use the building to be constructed on the Lands as Phase 2 of the Development for any purpose until it has constructed and installed the Mid-Block Walkway, at the Transferor's sole cost and to the satisfaction of the Transferee.

3.0 GENERAL

- 3.1 The Transferor and the Transferee agree that enforcement of this Agreement shall be entirely within the discretion of the Transferee and that the execution and registration of this Agreement against title to the Lands shall not be interpreted as creating any duty on the part of the Transferee to the Transferor or to any other person to enforce any provision or prevent or restrain the breach of any provision of this Agreement.
- 3.2 The Transferor shall indemnify and save harmless the Transferee from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which anyone has or may have, whether as owner, occupier or user of the Lands, or by a person who has an interest in or comes onto the Lands, or otherwise, which the Transferee incurs as a result of any loss or damage or injury, including economic loss, arising out of or connected with:
- (a) the breach of any covenant in this Agreement;
 - (b) the use of the Lands contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
- 3.3 The Transferor hereby releases and forever discharges the Transferee of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which the Transferor can or may have against the Transferee for any loss or damage or injury, including economic loss, that the Transferor may sustain or suffer arising out of or connected with:
- (a) the breach of any covenant in this Agreement;
 - (b) the use of the Lands contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
- 3.4 At the Transferor's expense, the Transferor must do everything necessary to secure priority of registration and interest for this Agreement over all registered and pending charges and encumbrances of a financial nature against the Lands.
- 3.5 This Agreement does not
- (a) affect or limit the discretion, rights or powers of the Transferee under any enactment (as defined in the *Interpretation Act*, R.S.B.C. 1996, c. 238, on the reference date of this Agreement) or at common law in relation to the Transferor or the Lands all of which may be exercised or enforced by the Transferee as if this Agreement did not exist,

- (b) affect or limit any enactment relating to the use or subdivision of the Lands, or
 - (c) relieve the Transferor from complying with any public or private enactment, including in relation to the use or subdivision of the Lands.
- 3.6 Where the Transferee is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Transferor agrees that the Transferee is under no public law duty of fairness or natural justice in that regard and agrees that the Transferee may do any of those things in the same manner as if it were a private party and not a public body.
- 3.7 No part of the title in fee simple to the soil shall pass to or be vested in the Transferee under or by virtue of these presents and the Transferor may fully use and enjoy all of the Lands subject only to the rights and restrictions herein contained.
- 3.8 If the Transferor is in breach of any provision of this Agreement, including section 2.0, the Transferee may but is under no obligation to inspect, repair and maintain the Right of Way and Mid-Block Walkway, including removal of any buildings, structures or improvements placed without consent, at the expense of the Transferor.
- 3.9 The covenants herein shall be covenants running with the Lands upon which the Right of Way is situated and none of the covenants herein contained shall be personal or binding upon the parties hereto, save and except during the Transferor's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Transferor shall have an interest, but that the Lands, nevertheless, shall be and remain at all times charged herewith.
- 3.10 The parties hereto shall do and cause to be done all things and execute and cause to be executed all documents which may be necessary or desirable to give proper effect to the intention of this instrument.
- 3.11 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their successors and assigns and their heirs and administrators respectively.
- 3.12 Whenever the singular or masculine are used they shall be construed as including the plural, feminine or body corporate where the context requires.
- 4.0 PRIORITY AGREEMENT**
- 4.1 _____, the registered holder of a charge by way of _____ registered against the Lands, which said charge is registered in the Land Title Office at Victoria, British Columbia, under _____, for and in consideration of the sum of Ten (\$10.00) Dollars paid by the Transferee to the said Chargeholder (the receipt of whereof is hereby acknowledged), agrees with the Transferee, its successors and assigns,

that the Statutory Right of Way and Section 219 Covenant shall be encumbrances upon the lands in priority to the said charge in the same manner and to the same effect as if they had been dated and registered prior to the said charge.

The parties hereto acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D attached hereto.

SCHEDULE "A"

**(Reduced Copy of Explanatory Plan Showing
Statutory Right of Way Area)**

SCHEDULE "J"

ENCROACHMENT AGREEMENT

THIS AGREEMENT this ____ day of _____, 2014

BETWEEN:

JAWL ENTERPRISES LTD.
5331 Cordova Bay Road
Victoria, BC V8Y 2L3

(the "Owner")

OF THE FIRST PART

AND:

THE CORPORATION OF THE CITY OF VICTORIA
1 Centennial Square
Victoria, BC V8W 1P6

(the "City")

OF THE SECOND PART

WHEREAS:

A. The Owner is the owner of:

PID: 029-049-369

Lot 1 of Lots 1247, 1248 and 1257, Victoria City, Plan EPP27886

(the "Land");

in the City;

B. The Owner has applied to the City for approval of the construction of a commercial office building upon the Land, under the terms and conditions of the City of Victoria Development Permit No _____ and the City of Victoria Building Permit No _____;

C. In connection with the construction of the proposed development referred to in Recital B, the Owner has requested the City to grant it permission to construct, use or continue the use or existence of an encroachment onto highways of which the City has the use and possession, which encroachment is appurtenant to the Land;

D. The City has agreed to grant the Owner's request, subject to the provision of all City bylaws and to the terms and condition herein set forth;

E. The City has the authority to enter into this Agreement pursuant to the terms of section 14 of the *Victoria City Act, 1919*, and pursuant to the City of Victoria Sidewalk Fixtures (Encroachment and Easement) Bylaw;

NOW THEREFORE, in consideration of the premises and the covenants herein contained and for other valuable consideration, receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto covenant and agree each with the other as follows:

1.0 ENCROACHMENT

- 1.1 The City (so far as it legally can, but not otherwise, and subject to this Agreement and to the statute and bylaw aforesaid), grants unto the Owner permission to construct and maintain an encroachment comprising anchor rods or soldier pilings into those parts of Douglas Street, Cormorant Street and Pandora Avenue (collectively, the "Highways") in the City of Victoria that adjoin the Land, all in accordance with the plans and specifications attached hereto as Schedule "A", (which encroachment, including all excavation or other work now or hereafter performed in connection therewith, is hereinafter referred to as "the Works").

2.0 USE

- 2.1 The Owner shall not use the Land for the purpose of construction on the Land any building or structure that would encroach onto land owned or possessed by the City save and except the Works.

3.0 CONSTRUCTION OF WORKS

- 3.1 The Owner shall retain a professional engineer licensed to practice in the Province of British Columbia with experience in the design and construction of works of a similar kind to those proposed to be installed under this Agreement (the said engineer to be referred to herein as the "Owner's Consultant"). The Owner's Consultant will be responsible for ensuring that the design and construction of the Works at all times is in accordance with sound engineering and construction practices, and is carried out in accordance with the terms of this Agreement.
- 3.2 The Owner's Consultant must provide written confirmation to the City, prior to the commencement of the construction of the Works, that it has thoroughly investigated the location of existing services and utilities, and that the installation of the Works in their proposed location will not interfere with or cause damage to any existing underground utilities or services, whether of the City, the Capital Regional District, or any private or public utility. The Owner shall be solely responsible for the cost of the location of all such services for the purpose of obtaining and providing such confirmation.
- 3.3 Prior to the commencement of construction of the Works, the Owner's Consultant must submit a detailed plan, bearing his professional seal showing in cross section the profile of all underground services within the area of the Highways covered by this Agreement, as well as, in relation thereto, the proposed location of all anchor rods or soldier pilings that are to form part of the Works. The City reserves the right to require that any

portion of the Works be relocated, where in the reasonable opinion of the City's Director of Engineering, the proposed location of the Works or any portion thereof may interfere with or damage underground services of the City, the Capital Regional District or any private or public utility.

- 3.4 The Works shall be installed strictly in accordance with the plans and specifications that are attached as Schedule "A" to this Agreement, unless the City's Director of Engineering authorizes the modification of such plans or specifications.
- 3.5 If during the course of construction the Owner's Consultant determines that any part of the anchor rods or soldier pilings comprising the Works are required to be placed in a location other than shown on the plans and specifications attached as Schedule "A", or determines that additional anchor rods or soldier pilings are required to be installed within the Highways, the Owner's Consultant must first obtain the authorization of the City's Director of Engineering before proceeding with such modification to the Works.
- 3.6 The City makes no representation or warranty as to the subsurface soil conditions within the area of the Highways within which the Works are to be constructed, including as to whether the soil or groundwater within the Highways contains any contamination, special waste or prescribed substance in a quantity or concentration that exceeds the standards permitted under the provisions of the *Waste Management Act* and Regulations thereto. The City will not be responsible for any increased or additional costs (including, without limitation, any costs associated with delays in proceeding with the Works), incurred by the Owner in constructing the Works as a result of the presence of any such special waste, contamination or prescribed substance, or any other soil or groundwater contamination within the Highways, environmental consultant's fees, the cost of any permits for removal or disposal of contaminated soils or groundwater, or the removal, disposal or treatment of contaminated soil or groundwater that is required to be removed from the Highways as a result of the Works being undertaken, or any other similar costs.
- 3.7 When backfilling the excavation made in connection with the Works, the Owner's Consultant will ensure that all anchor rods are de-tensioned prior to backfilling, and that all soldier piles are removed to depth of at least 4 feet below grade or greater if achievable. Backfilling must be brought up to existing grade and completed to City Standards and Specifications.
- 3.8 After the completion of backfilling, the Owner must provide to the City a set of engineered drawings prepared by the Owner's Consultant that identify in cross section and plan views the location of all anchor rods and soldier piles, as installed (referred to herein as the "As Built Drawings"). The Owner must also provide to the City a letter prepared by the Owner's Consultant and bearing his professional seal, certifying that the Works have been installed in accordance with the As Built Drawings, modified with the approval of the Director of Engineering, and that all anchor rods left within the Highways have been de-tensioned.

- 3.9 The Owner will be responsible throughout the construction of the Works to protect persons and property in the vicinity of the Works from injury, loss or damage.
- 3.10 The Owner shall at its sole cost arrange to have all of the City's storm drain and/or sewer mains within the Highways, in the area of the Works, inspected by video camera before commencement and after completion of the Works to ensure that no damage has resulted through construction of the Works. This work shall be coordinated through the City's Water and Environment Division.

4.0 NO RELIEF

- 4.1 It is understood, covenanted and agreed by and between the parties hereto that no provision of this agreement and no act or omission or finding of negligence, whether joint or several, as against the City, in favour of any third party, shall operate to relieve the Owner in any manner whatsoever from any liability to the City in the premises, or under these presents, or under the provisions of the *Local Government Act*, or any bylaw of the City and amendments thereto.

5.0 OWNER'S COVENANTS

The Owner further covenants and agrees:

5.1 Fee

That it will pay to the City a non refundable fee of \$750.00 and shall pay a one-time charge of \$25 per square meter of area of the proposed excavation face that will be supported by anchor rods and abuts a street or lane as calculated by the Engineer. This fee is to be paid prior to the commencement of the Works.

5.2 Save Harmless

To release, indemnify and save harmless the City from any and all liability for property damage, personal injury (including death) or economic loss arising out of:

- a) the Works encroaching upon, under or over the Highways, or
- b) the Owner's construction of the Works upon, under or over the Highways or
- c) the Owner's maintenance of the Works upon, under or over the Highways, or
- d) the Owner's occupation or use of the Highways or the ground below or the air above for the purpose of such encroachment by the Works, or

- e) the negligence of the Owner or its employees, agents, contractors, subcontractors or consultants, including the Owner's Consultant, in relation to the design or construction of the Works, or
- f) any failure of or damage to the Works at any time, including without limitation, failure due to errors in design of the Works, or faulty or defective materials or workmanship, whether or not the result of negligence on the part of the Owner or its employees, agents, sub-contractors or consultants including the Owner's Consultant.

5.3 To charge his interest in the Land in favour of the City for the payment of all sums which may at any time hereafter be payable by the City in respect of any claims, loss, damage or expense of whatsoever kind arising:

- i) from the construction, maintenance or existence of the Works, or
- ii) from the permission hereby granted,

and to answer any indemnity or payment provided in the bylaws of the City or under the terms of this agreement;

5.4 Insurance

To deposit with the City a policy of public liability insurance in a minimum amount of \$5 million per occurrence, insuring both the Owner and the City against any loss resulting from the occurrences mentioned in subsection 5.2 above. The terms of such policy must provide that the insurer give the City 30 days' notice prior to cancellation of the insurance.

5.5 Entry

That the City reserves the right for itself, its servants or agents, at any and all reasonable times, to enter into and upon the Land for the purpose of inspecting the Works so as to determine whether the Owner is in compliance with this Agreement.

5.6 Works

That in the event that the construction, maintenance, use or removal of the Works necessitates any alteration or change to any meter, water service, sewer or other public works or utility in the vicinity of the Works, the Owner will reimburse the City for whatever sums may be incurred by the City in making such alterations or changes as may be deemed necessary by the City's Director of Engineering.

5.7 Default

At all times to observe and perform the provisions of the bylaws of the City, and this

Agreement shall be at all times subject thereto and in case the Owner shall fail to comply with the provisions of the said bylaws, or any of them or of this agreement, all rights of the Owner hereunder shall thereupon terminate and be at an end, but the City, nevertheless, shall be entitled to proceed with the enforcement of any security or indemnity herein provided, or upon any bond or otherwise in satisfaction of any claim, loss or expenses of whatsoever kind arising under this agreement, or from the permission hereby granted.

6.0 REGISTRATION

- 6.1 In the event of this Agreement being registered as a charge against the Land, none of the Owner's covenants herein contained shall be personal or binding upon the Owner save or except during the Owner's seisen of or ownership of any interest in the Land, and with respect only to the portion of the Land of which the Owner shall be seized or in which he shall have an interest; but that the said Land shall, nevertheless, be and remain at all times charged therewith.
- 6.2 If this Agreement is not registered the Owner shall inform all prospective and actual purchasers, mortgagees and tenants of the Land of this Agreement and shall furnish any and all purchasers, mortgagees and tenants with a copy of this Agreement.

7.0 ALTERATION OF MUNICIPAL WORKS

- 7.1 This Agreement shall not in any way operate to restrict the right of the City at any time to:
- a) alter the road, curb, gutter, sidewalk or boulevard abutting or adjoining the Land, and notwithstanding that the effect of such alteration in width or elevation may be to render the Works useless or of less value for the purposes of the Owner.
 - b) construct or maintain any form of structure or utility on, over or under any portion of the Highways on or in which the Works encroach and for such purpose require that the Works be removed in part or in whole; and

the Owner covenants that, in the event of the City effecting any such alteration or construction or in requiring removal of all or part of the Works, the Owner will release and forever discharge, and hereby releases and forever discharges, the City from all manner of claims of any nature whatsoever, which may arise by reason of such alteration in width and/or elevation as aforesaid, or by reason of the discontinuance and removal of the Works, as a result of such alteration in width and/or elevation or construction.

8.0 GENERAL PROVISIONS

- 8.1 Time shall be of the essence of this agreement.

- 8.2 This agreement shall enure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties hereto.
- 8.3 The restrictions and covenants herein contained shall be covenants running with the Land and shall be registered in the Land Title Office pursuant to Section 219 of the *Land Title Act* as covenants in favour of the City.
- 8.4 Where the context so requires, words importing the singular number shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and vice versa. In addition, and where the context so requires, all words used herein shall have the same meaning in this Agreement as they have in the bylaws of the City applicable to the Owner.
- 8.5 Any notice required or permitted to be given hereunder shall be in writing and shall be given by prepaid registered mail addressed to the parties at the addresses set forth on page 1 of this Agreement. Such notice shall be deemed to have been given and received five (5) business days (excluding Saturdays, Sundays and statutory holidays), following, but not including, the day on which it is mailed.
- 8.6 This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

IN WITNESS WHEREOF the parties have executed this agreement the day and year first above written.

The CORPORATION OF THE CITY OF
VICTORIA by its authorized signatories:

Mayor

Corporate Administrator

JAWL ENTERPRISES LTD.
by its authorized signatories:

Authorized Signatory

Authorized Signatory

SCHEDULE "A"**(Plans and Specifications)**

LAND TITLE ACT
FORM C (Section 233) CHARGE
GENERAL INSTRUMENT - PART 1 Province of British Columbia

SCHEDULE "K"

PAGE 1 OF 6 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

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

JAWL & BUNDON**Barristers & Solicitors****4th Floor, 1007 Fort Street****Victoria****BC V8V 3K5****(250)385-5787****MSJ/1515 Douglas-MDA**Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

029-049-369**LOT 1 OF LOTS 1247, 1248 AND 1257, VICTORIA CITY, PLAN EPP27886**STC? YES ☐

3. NATURE OF INTEREST

Covenant

CHARGE NO.

ADDITIONAL INFORMATION

Entire Document

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

(a) ☐ Filed Standard Charge Terms D.F. No.(b) ☒ Express Charge Terms Annexed as Part 2

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

5. TRANSFEROR(S):

JAWL ENTERPRISES LTD. (INC. NO. BC 0743917)

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

THE CORPORATION OF THE CITY OF VICTORIA**#1 CENTENNIAL SQUARE****VICTORIA****BRITISH COLUMBIA****V8W 1P6****CANADA**

7. ADDITIONAL OR MODIFIED TERMS:

N/A

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

Officer Signature(s)

Execution Date

Transferor(s) Signature(s)

Barrister & Solicitor**4th Floor, 1007 Fort Street****Victoria, BC V8V 3K5****14****JAWL ENTERPRISES LTD. by
its authorized signatory:****Print Name: ROBERT JAWL****OFFICER CERTIFICATION:**

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

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

PAGE 2 of 6 pages

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y M D

The Corporation of the City of Victoria
by its authorized signatory(ies):

Name: Mayor

OFFICER CERTIFICATION:

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

TERMS OF INSTRUMENT – PART 2
SECTION 219 COVENANT

THIS AGREEMENT dated for reference _____, 2014

BETWEEN:

JAWL ENTERPRISES LTD.
5331 Cordova Bay Road
Victoria, BC V8Y 2L3

(the "Owner")

OF THE FIRST PART

AND:

THE CORPORATION OF THE CITY OF VICTORIA
1 Centennial Square
Victoria, BC V8W 1P6

(the "City")

OF THE SECOND PART

W H E R E A S:

A. The Owner is the registered owner in fee simple of:

PID: 029-049-369

Lot 1 of Lots 1247, 1248 and 1257, Victoria City, Plan EPP27886

(the "Land");

B. The Owner has made application to the City to rezone the Land to increase the permitted density of development upon the Land, as set out in draft City of Victoria Zoning Regulation Bylaw No. 14-102, Zoning Regulation Bylaw, Amendment Bylaw (No. 1022) (the "Rezoning Bylaw"), and to amend the applicable development permit guidelines as set out in Bylaw No. 14-103, the City of Victoria Official Community Plan Bylaw, 2012, Amendment Bylaw (No. 9) (the "OCP Amendment Bylaw");

C. The Owner and the City are parties to a Master Development Agreement made as of _____, 2014 (the "MDA") respecting the Land, a copy of which is attached as Schedule "A";

D. Under the terms of the MDA, the use and development of the Land are restricted in the public interest, and the Owner has undertaken to provide certain services, agreements, amenities, benefits and gifts in respect of the Land, and the Owner has agreed to

provide the City with a restrictive covenant and indemnity pursuant to section 219 of the *Land Title Act* to secure the restrictions and obligations of the Owner;

NOW THEREFORE in consideration of the payment of the sum of Ten Dollars (\$10.00) by the City to the Owner and the premises and covenants herein contained and for other valuable consideration, receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto covenant and agree each with the other as follows:

1.0 Development in Accordance with Master Development Agreement.

1.1 The Owner covenants and agrees that any development of the Land shall occur in accordance with the terms and conditions of the MDA, which terms and conditions are incorporated into and form part of this Agreement.

1.2 Without limiting the generality of section 1.1, the Owner covenants and agrees that:

- (a) the Owner shall not, nor shall it permit, any improvement, development, building or facility to be made, placed, erected or constructed upon the Land;
- (b) the Owner shall not make any application to subdivide the Land;
- (c) the City shall be under no obligation to issue a new Building Permit or Development Permit for any proposed improvement, development or facility that is proposed to be made, placed, erected or constructed upon the Land;
- (d) the City shall be under no obligation to issue an Occupancy Permit for any building constructed upon the Land;
- (e) the Approving Officer for the City shall be under no obligation to approve any application for subdivision of the Land; and
- (f) the Owner shall take no action, directly or indirectly, to compel the approval of any Subdivision Plan or to compel the issuance of any Building or Development Permit or Occupancy Permit in respect of any improvement, development, building or facility upon the Land;

unless in respect of such improvement, development, building, facility, subdivision application, building or development permit, occupancy certificate or subdivision approval, the Development contemplated in the MDA proceeds and the Owner fully complies with the requirements of the MDA concerning:

- Streetscape and Servicing Improvements (Part 2.0 of the MDA),
- Phase 2 – Interim Hoarding (Part 3.0 of MDA),
- Heritage Mitigation Measures (Part 4.0 of the MDA),
- LEED Standard (Part 5.0 of the MDA),
- Parking and Lockers (Part 6.0 of the MDA),

- Public Access (Part 7.0 of the MDA),
- Encroachments (Part 8.0 of the MDA)

that are applicable to the improvement, development, building, facility, subdivision application, building permit or development permit, occupancy certificate or subdivision approval, as the case may be.

2.0 General Provisions

- 2.1 If for any reason the Rezoning Bylaw and the OCP Amendment Bylaw are not approved by the City within six (6) months after the date of execution of this Agreement by both parties, the City shall execute and deliver to the Owner a discharge of this Agreement as it relates to the Land within nine (9) months of the date of registration hereof provided the Owner has abandoned in writing its intent to pursue the Rezoning Bylaw.
- 2.2 Nothing herein contained or implied shall prejudice or affect the rights and powers of the City and the exercise of its functions under any public and private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Land as if this Agreement had not been executed and delivered by the Owner.
- 2.3 The Owner and the City agree that the enforcement of this Agreement shall be entirely within the discretion of the City and that the execution and registration of this covenant against the title to the Land shall not be interpreted as creating any duty on the part of the City to the Owner or to any other person to enforce any provision or the breach of any provision of this Agreement.
- 2.4 The Owner acknowledges that the City, or its officials, employees or agents, has not stated, held out or implied any expectation or requirement that the covenants must be provided in order for the Owner's rezoning application to be approved, but rather the Owner hereby expresses its intention to voluntarily donate the covenants in this Agreement to the City, and be bound by them, without any expectation of payment or reward of any kind. The Owner further releases, waives and forever discharges the City from and against any claims, actions, or causes of action, whether based in contract, tort or equity, for damages or losses, or for the recovery of costs incurred, in connection with the provision of these voluntary covenants.
- 2.5 The Owner hereby releases and forever discharges the City of and from any claim, cause of action, suit, demand, expenses, costs and legal fees whatsoever which the Owner can or may have against the said City for any loss, damage, deprivation or injury, in law or equity, that the Owner may sustain or suffer arising out of this Agreement.
- 2.6 The Owner covenants and agrees to indemnify and save harmless the City from any and all claims, causes of action, suits, demands, expenses, enrichment, costs and legal fees whatsoever that anyone might have as owner, occupier or user of the Land or by a person who has an interest in or comes on the Land or by anyone who suffers loss of life

or injury to his person or property, that arises out of the terms and restrictions of this Agreement or a breach of this Agreement by the Owner.

- 2.7 It is mutually understood, acknowledged and agreed by the parties hereto that the City has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Owner other than those contained in this Agreement.
- 2.8 The Owner agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
- 2.9 The Owner shall pay the registration costs of the City in connection with the registration of this Agreement. This is a personal obligation only.
- 2.10 The Owner covenants and agrees for itself, its heirs, executor, successors and assigns, that it will at all times perform and observe the requirements and restrictions, hereinbefore set out and they shall be binding upon the Owner as personal covenants only during the period of the Owner's respective ownership of any interest in the Land.
- 2.11 The restrictions and covenants herein contained shall be covenants running with the Land and shall be perpetual (subject to the provisions of the MDA contemplating the discharge of this Agreement upon certain conditions), and shall continue to bind all the Land when subdivided, and shall be registered in the Victoria Land Title Office pursuant to section 219 of the Land Title Act as covenants in favour of the City as a charge against the Land and taking priority over all financial charges.
- 2.12 This Agreement shall enure to the benefit of the City and shall be binding upon the parties hereto and their respective heirs, executors, successors and assigns.
- 2.13 Wherever the expressions "Owner" and "City" are used herein, they shall be construed as meaning the singular, plural, feminine or body corporate or politic where the context or the parties so require.

IN WITNESS WHEREOF the parties hereto hereby acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D (pages 1 and 2) attached hereto.

SCHEDULE "A"

MASTER DEVELOPMENT AGREEMENT

THIS AGREEMENT dated for reference the ____ day of _____, 2014

AMONG:

THE CORPORATION OF THE CITY OF VICTORIA

#1 Centennial Square
Victoria, BC V8W 1P6

(the "City")

OF THE FIRST PART

AND:

JAWL ENTERPRISES LTD.
Inc. No. BC0687810

5331 Cordova Bay Road
Victoria, BC V8Y 2L3

(the "Developer")

OF THE SECOND PART

WHEREAS:

- A. The Developer is the registered owner in fee-simple of the following lands in the City of Victoria, British Columbia described as:

PID: 029-049-369

Lot 1 of Lots 1247, 1248 and 1257, Victoria City, Plan EPP27886

(the "Land");

- B. The Developer has made an application to the City to rezone the Land to increase the permitted density of development upon the Land, as set out in draft City of Victoria Zoning Regulation Bylaw No. 14-102, Zoning Regulation Bylaw, Amendment Bylaw (No. 1022) (the "Rezoning Bylaw"), and to amend the applicable development permit guidelines as set out in Bylaw No. 14-103, the Official Community Plan Bylaw, 2012, Amendment Bylaw (No. 9) (the "OCP Amendment Bylaw"), copies of which bylaws are attached as Schedule "A";
- C. The Rezoning Bylaw, if adopted, will entitle the Developer to an increased density of development on the Land in exchange for the provision of certain amenities, and the

Developer has also offered additional amenities for the better integration of the Development into its neighbourhood. The amenities to be provided as contemplated under the Rezoning Bylaw include the following:

- (a) a minimum of one hundred and forty (140) on-site underground parking spaces and lockers for cyclists and bicycles in accordance with section 6.0 of this Agreement; and
- (b) public access through the Mid-Block Walkway as set out in section 7.2 of this Agreement.

The voluntary amenities to be provided by the Developer include the following:

- (c) streetscape and servicing improvements as set out in section 2.0 of this Agreement;
- (d) interim hoarding pending the completion of Phase 2 of the Development as set out in section 3.0 of this Agreement;
- (e) heritage mitigation measures as set out in section 4.0 of this Agreement;
- (f) the design and construction of the Development as substantially complying with the LEED standard, as set out in section 5.0 of this Agreement; and
- (g) public access to the Douglas Plaza and Rotunda as set out in section 7.0 of this Agreement.

(the amenities identified in subsections (a) to (g) are collectively referred to as the "Amenities").

- D. The Developer proposes to proceed with the Development in two phases, the first phase consisting of a six-storey retail and office building on the western portion of the Land and the underground parking facility in its entirety and the second phase consisting of a 13-storey retail and office building on the eastern portion of the Land ;
- E. The parties wish to set out in this Master Development Agreement the obligations of the Developer with respect to the Development, including the provision of the Amenities.

IN CONSIDERATION of the mutual promises exchanged herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and the Developer agree as follows:

1.0 INTERPRETATION

1.1 In this Agreement,

"Development" means the development of the Land as proposed by the Developer, generally as depicted on the plans attached as Schedule "B".

"Director of Engineering" means the Director of Engineering and Public Works for the City of Victoria.

"Director of Sustainable Planning and Community Development" means the Director of Sustainable Planning and Community Development for the City of Victoria.

"LEED® Canada CS 2009 – Gold" means that a building has been designed and constructed to satisfy all of the prerequisites to earn sufficient credits to be eligible for certification by the Canada Green Building Council to the "Gold" standard under LEED® Canada CS 2009.

"LEED Professional" means a person who is accredited as a LEED® accredited Professional with the Canada Green Building Council or the United States Green Building Council.

"Phase 1" means that portion of the Land and Development comprising a six-storey retail and office building and below grade parking, including the Douglas Plaza (as hereinafter defined) and Rotunda (as hereinafter defined) to be constructed within Development Area 1 as shown on the Rezoning Bylaw.

"Phase 2" means that portion of the Land and Development comprising a 13-storey building and the Mid-Block Walkway (as hereinafter defined) to be constructed within Development Area 2 as shown on the Rezoning Bylaw.

"Regular Office Hours" for the purposes of section 7.4 only, means the hours between 8:00 a.m. and 5:00 p.m. on every day, but excluding Saturdays, Sundays and statutory holidays.

1.2 Schedules

- Schedule "A" - Draft Rezoning Bylaw and OCP Amendment Bylaw
- Schedule "B" - Elevation, Landscape and Site Plan
- Schedule "C" - Interim Streetscape Condition Plan
- Schedule "D" - Phase 2 Hoarding Design
- Schedule "E" - Heritage Building Report
- Schedule "F" - Plans Showing Location of Douglas Plaza, Rotunda and Mid-Block Walkway
- Schedule "G" - Statutory Right of Way – Douglas Plaza
- Schedule "H" - Statutory Right of Way – Rotunda
- Schedule "I" - Statutory Right of Way – Mid-Block Walkway
- Schedule "J" - Encroachment Agreement
- Schedule "K" - Master Development Agreement - Restrictive Covenant

1.3 Unless otherwise provided, the terms in this Agreement shall be interpreted in accordance with the City's Zoning Regulation Bylaw No. 80-159 (the "Zoning Bylaw").

1.4 The schedules attached hereto shall form an integral part of this Agreement.

2.0 STREETScape AND SERVICING IMPROVEMENTS

2.1 The Developer covenants and agrees to construct the streetscaping, frontage, landscaping and site servicing improvements that are generally depicted on the Elevation, Landscape and Site Plan included as part of Schedule "B", which obligation shall include the construction of such improvements on the Land and on the adjoining road allowance, as depicted on the Elevation, Landscape and Site Plan. Such improvements will include the provision of a separated cycle track on Pandora Avenue and the conversion of Cormorant Street to a two-way street with parallel parking, including all associated intersection improvements. However, the parties acknowledge that the Elevation, Landscape and Site Plan do not provide sufficient detail with respect to streetscaping, frontage, landscaping and site servicing improvements, which improvements are conceptual only, and therefore the Developer covenants and agrees to provide the following in connection with any Building Permit application (excluding an Excavation Permit) with respect to the Land:

- (a) Detailed engineering plans showing all streetscape, frontage, landscaping and grade level improvements, including without limitation the cycle track, intersection improvements for Douglas/Cormorant and Blanshard/Cormorant associated with the conversion of Cormorant Street and all proposed finishing material and surface treatments;
- (b) Detailed engineering plans showing all site servicing for the Land; and
- (c) Engineering plans confirming horizontal and vertical curb alignment existing and proposed;

all to the reasonable satisfaction of the Director of Engineering (collectively, the "Improvements").

2.2 In fulfillment of the intention of the City's Downtown Core Area Plan (2011), the Improvements required under section 2.1 shall include the placement underground of all overhead utility cables and wires that presently extend over the Land or the road allowance that is immediately adjacent to the Land.

2.3 The Developer and the City both acknowledge that the Improvements contemplate the construction of one or more bio-swaes within the road allowance adjoining the Land, to provide treatment and management of storm water that would otherwise be captured by gutters and catch basins, from the public sidewalk and the roadway adjoining the Lands. The Developer shall be responsible for the maintenance of the bio-swaes for a period of

three (3) years following the issuance of an Occupancy Permit for Phase 2 of the development.

2.4 Prior to issuance of a Building Permit for any building or work on the Land, the Developer will:

- (a) provide security in the form of a certified cheque or irrevocable letter of credit in an amount that is to the reasonable satisfaction of the Director of Engineering, as security for the Developer's obligations to construct the Improvements under sections 2.1 and 2.3 and to maintain the bio-swaes as provided in section 2.3; and
- (b) enter into a Construction Agreement with the City, in the City's standard form, respecting the construction of Improvements to the satisfaction of the Director of Engineering.

2.5 The Developer covenants and agrees to complete all the Improvements for the Development, to the reasonable satisfaction of the Director of Engineering, prior to issuance of an Occupancy Permit for any building on the Land.

2.6 Notwithstanding section 2.5, the City and the Developer agree that the Developer may extend the time for the completion of all or part of an Improvement where such extension is reasonably required to facilitate staging and access to a portion of the Land for development and construction purposes. The Interim Streetscape Condition Plan attached as Schedule "C" identifies the anticipated state of the Improvements following the completion of Phase 1. All the Improvements must be completed prior the issuance of an Occupancy Permit for any building in Phase 2.

3.0 PHASE 2 – INTERIM HOARDING

3.1 In addition to the requirements of sections 2.1 and 2.3 and any other bylaws or regulations of the City, the Developer covenants and agrees to:

- (a) install and maintain temporary hoarding on the portions of the Land intended to be developed as Phase 2 of the Development until such time as the construction of Phase 2 commences, to the reasonable satisfaction of the Director of Sustainable Planning and Community Development; and
- (b) the design of the hoarding shall generally be as shown in Schedule D.

3.2 Prior to the issuance of a Building Permit for any building in Phase 1, the Developer agrees to provide security in the form of a certified cheque or irrevocable letter of credit in an amount equal to 120% of the cost estimate to install the temporary hoarding as security for the Developer's obligations to install and maintain temporary hoarding pursuant to section 3.1. The cost estimate is to be provided by a registered landscape architect or

architect to the satisfaction of the Director of Sustainable Planning and Community Development.

- 3.3 Upon installation of the temporary hoarding pursuant to section 3.1 the City will release the security provided pursuant to section 3.2.

4.0 HERITAGE MITIGATION MEASURES

- 4.1 The Development will result in the demolition of the former Royal Bank of Canada Building at 1501 Douglas Street which the parties agree has heritage value. The Developer has agreed to the certain mitigation measures as set out in the Heritage Building Report attached as Schedule E. The Developer covenants and agrees to salvage, store and reuse the building materials identified in the Heritage Building Report in the manner more particularly described in the Report. Without limiting the generality of the foregoing, the Developer will, at the Developer's sole cost and expense:

- (a) Reuse and integrate into the Development the Peribonka Black Granite, Verdi Onicate Marble, Haddington Island Andesite Stone and Aluminum Panels (collectively, the "Heritage Materials") as set out in paragraphs 5.1.1-5.1.4 and Appendix E of the Heritage Building Report;
- (b) Salvage and store the Heritage Materials as set out in paragraph 5.1.5 and Appendix E of the Heritage Building Report;
- (c) Within 1 year of an occupancy permit being issued for Phase 1 of the Development, at the City's option, either:
 - (i) arrange for the holding of the Postwar Modernist educational exhibit as described in paragraph 5.2 of the Heritage Building Report, to the satisfaction of the Director of Sustainable Planning and Community Development; or
 - (ii) provide a \$15,000.00 donation to either the Victoria Civic Heritage Trust or the Victoria Heritage Foundation, to be utilized by the selected society as directed by Director of Sustainable Planning and Community Development ;
- (d) provide commemorative interpretive signage as set out in paragraph 5.3 of the Heritage Building Report, to the satisfaction of the Director of Sustainable Planning and Community Development.

- 4.2 If the City fails to provide written notice to the Developer of the City's election of one of the options referred to in section 4.1(c) prior to the issuance of an occupancy permit for Phase 1 of the Development, the City shall be deemed to have elected the donation option under section 4.1(c)(ii).

- 4.3 The Developer covenants and agrees that prior to applying for an occupancy permit for Phase 2 of the Development, it shall provide to the City written confirmation from Donald Luxton, or another registered professional acceptable to the City, confirming that the Heritage Materials have been reused and incorporated into the Development in accordance with this Section 4.0.

5.0 LEED STANDARD

- 5.1 The Developer covenants and agrees that the Development shall be designed and constructed to, at a minimum, meet the LEED® Canada CS 2009 – Gold standard.
- 5.2 In order to demonstrate compliance with section 5.1, the Developer covenants and agrees as follows:
- (a) to provide the City with evidence of the registration of the Development for LEED® certification with the Canada Green Building Council prior to the issuance of a Building Permit for the Development;
 - (b) not to commence any construction or development activities upon the Land until it has submitted to the City, for the City's review and approval, a report prepared by a LEED® Professional, demonstrating to the City's satisfaction that the design, specifications and other features of the Development are sufficient to substantially satisfy all prerequisites and credits required for LEED® Canada CS 2009 – Gold certification;
 - (c) It shall not use or occupy the Development, or permit its use or occupancy, for any purpose until it has submitted to the City for its review and approval a report prepared by a LEED Professional confirming that the Development has been constructed substantially in accordance with the design and specifications approved by the City under section 5.2(b).
- 5.3 For certainty, the Developer shall not be required to obtain certification from the Canada Green Building Council that the Development has attained LEED® Canada CS 2009 – Gold project rating, it being the intention of the parties that the Development shall be designed and constructed such that it would be eligible for such certification if applied for. Notwithstanding the foregoing, if the Development is certified by the Canada Green Building Council, the Developer shall provide to the City a copy of the certification within a reasonable period of time.

6.0 PARKING AND LOCKERS

- 6.1 The Developer covenants and agrees to provide a minimum of one hundred and forty (140) enclosed parking spaces below grade on the Land.

- 6.2 The Developer covenants and agrees to provide storage lockers for cyclists and bicycles as shown on the plans attached as Schedule B.
- 6.3 The parking spaces and storage lockers must be constructed and installed to the satisfaction of the Director of Sustainable Planning and Community Development in accordance with the plans attached as Schedule B prior to the issuance of an occupancy permit for any building on the Land.

7.0 PUBLIC ACCESS

- 7.1 The Developer covenants and agrees that Phase 1 of the Development shall include:
 - (a) an outdoor plaza ("Douglas Plaza") fronting onto Douglas Street at the intersection with Pandora Avenue; and
 - (b) an internal atrium area ("Rotunda").
- 7.2 The Developer covenants and agrees that Phase 2 of the Development shall include a mid-block walkway ("Mid-Block Walkway") along the easterly boundary of the Land connecting the street levels of Pandora Avenue and Cormorant Street, which walkway shall be at least 3.0 metres wide throughout with an average width of at least 3.7 metres.
- 7.3 The Douglas Plaza, Rotunda and Mid-Block Walkway shall be located as shown on Schedule F and constructed as generally depicted on the plans attached to this Agreement as Schedule B. Upon completion of the Douglas Plaza, Rotunda and Mid-Block Walkway, the Developer shall, in each case and at its sole cost and expense, cause a British Columbia Land Surveyor to prepare an explanatory or reference plan of statutory right of way in registerable form defining the actual as built boundaries of the Douglas Plaza, Rotunda and Mid-Block Walkway as constructed ("Specific Right of Way Areas").
- 7.4 Following the issuance of an Occupancy Permit for Phase 1 of the Development, the Developer covenants and agrees to allow public access to Douglas Plaza at all times and to the Rotunda during Regular Office Hours, provided however that notwithstanding the foregoing the Developer and those claiming authority through the Developer, and their respective agents may bar entry to or eject from Douglas Plaza and the Rotunda any member of the public who engages in undesirable behavior as more particularly described in the statutory right of way.
- 7.5 Following the issuance of an Occupancy Permit for Phase 2 of the Development, the Developer covenants and agrees to allow public access to the Mid-Block Walkway at all times, subject to the restrictions related to undesirable behavior as more particularly described in the statutory right of way.
- 7.6 The Developer agrees that prior to the issuance of an Occupancy Certificate for Phase 1 of the Development the public right of access and use of Douglas Plaza and the Rotunda shall

be secured by registration of statutory rights of way pursuant to section 218 of the Land Title Act in favour of the City in the forms attached hereto as Schedules G and H respectively. The statutory rights of way for each of the Douglas Plaza and Rotunda shall refer to the Specific Right of Way Areas as shown on the explanatory or reference plans referred to in section 7.3.

- 7.7 Prior to the issuance of a Building Permit for any building in Phase 2 of the Development, the Developer agrees that the public right of access and use of the Mid-Block Walkway shall be secured by the registration of a statutory right of way pursuant to section 218 of the Land Title Act in favour of the City, in the form attached hereto as Schedule I. The statutory right of way shall refer to the Specific Right of Way Area as shown on the explanatory or reference plan referred to in section 7.3 and shall include a covenant under section 219 of the *Land Title Act* to construct and maintain the Specific Right of Way Area. Notwithstanding the foregoing, if the Mid-Block Walkway has not been completed prior to the issuance of a Building Permit for the building in Phase 2, the parties agree to register a statutory right of way for an interim period over the easterly 5 metres of the Land and it shall include a provision allowing the Developer to suspend public access and utilize the right of way area during the construction of improvements on the Land. The parties agree that the interim statutory right of way shall be released following completion of the Mid-Block Walkway and on provision of a specific statutory right of way that refers to the Specific Right of Way Area.

8.0 ENCROACHMENTS

- 8.1 The construction of the underground levels of the Development will require encroachments onto highways adjacent to the Land of which the City has use and possession to construct and maintain anchor rods and/or soldier pilings. Prior to the issuance of a Building Permit for the Development the Developer covenants and agrees to enter into Encroachment Agreements in the form and containing the terms and conditions set out in Schedule J.

9.0 RESTRICTIVE COVENANT

- 9.1 Prior to the Public Hearing to be held by Council for the City in respect of the Rezoning Bylaw and the OCP Amendment Bylaw, the Developer shall provide an executed restrictive covenant to be registered against title to the Land, pursuant to section 219 of the *Land Title Act*, which incorporates the terms of this Master Development Agreement and is in the form attached as Schedule "K" to this Agreement (the "MDA Restrictive Covenant").

10.0 ASSIGNMENT

- 10.1 Upon any transfer of the Land or portion thereof (the "Transferred Property"):

- (a) the Developer, the purchaser of the Transferred Property and the City will enter into an assumption agreement, satisfactory to the City, under which the purchaser shall assume all of the Developer's obligations outstanding under this Master Development Agreement with respect to the Transferred Property;
- (b) subject to receipt of such assumption agreement, the City shall release the Developer from the obligations so assumed; and
- (c) if the purchaser replaces any existing security relating to the Transferred Property, to the City's satisfaction, the City shall release a comparable portion of the security provided by the Developer.

11.0 TERMINATION

- 11.1 Provided that the Developer complies with all the terms and conditions of this agreement and obtains an Occupancy Permit for all the aspects of the Development, the City covenants and agrees to discharge this Agreement and the MDA Restrictive Covenant from title to the Land.
- 11.2 If the City does not approve and pass the Rezoning Bylaw and the OCP Amendment Bylaw, the City covenants and agrees to discharge this Agreement from title to the Land and this Agreement shall be terminated.
- 11.3 If the City adopts the Rezoning Bylaws, but amends or repeals the Rezoning Bylaws without the consent of the Developer, before a Building Permit for the Development is issued, such that the Developer cannot lawfully construct the Development, the City covenants and agrees to discharge this Agreement from title to the Land and upon such discharge this Agreement shall be terminated.

12.0 DECLARATION OF DONATIVE INTENT, WAIVER AND RELEASE

- 12.1 Except as required under section 904 of the *Local Government Act*, British Columbia:
 - (a) the Developer acknowledges that the City, its officials, employees and agents, have not stated, held out or implied any expectation or requirement that the Amenities must be provided in order for the Developer's application to be approved; and
 - (b) the Developer hereby expresses its intention to donate the Amenities identified in this Agreement to the City as a gift, as amenities for the use and enjoyment of the public, without any expectation of payment or reward of any kind. The Developer further releases, waives and forever discharges the City from and against any claims, action, or causes of action, whether based in contract, tort or equity, for damages or losses, for the recovery of costs incurred, including legal expenses, or for unjust enrichment, in connection with the provision of those Amenities.

13.0 PUBLIC BODY

- 13.1 Nothing contained or implied within this Master Development Agreement shall prejudice or affect the duties, rights and powers of the City in the exercise of its functions under any public or private statutes, bylaws, orders or regulations, all of which may be fully and effectively exercised in relation to the Land as if this Master Development Agreement has not been executed and delivered. Without limiting the generality of the foregoing, nothing in this Master Development Agreement shall be construed as affecting or influencing in any way the decision of Council for the City with respect to the adoption of the Rezoning Bylaw or OCP Amendment Bylaw.
- 13.2 Nothing in this Agreement shall relieve the Developer from any obligation or requirement arising under any applicable statute, bylaw or regulation in respect of the development of the Land and of which the Developer are the owners at the relevant time. Without limiting the generality of the foregoing, the Developer shall remain fully responsible to ensure that the development of the Land is in full compliance with all requirements of the Bylaws of the City of Victoria respecting land development, zoning, heritage, subdivision and building construction.
- 13.3 Issuance of a Development Permit, Building Permit or Occupancy Permit does not warrant or guarantee satisfaction of these conditions in the Agreement.

14.0 GENERAL PROVISIONS

14.1 In this Agreement:

- (a) the headings and captions are for convenience only and do not form a part of this Agreement and will not be used to interpret, define or limit the scope, extent or intent of this Agreement or any of its provisions;
- (b) the word "including" when following any general term or statement is not to be construed as limiting the general term or statement to the specific items or matters set forth or to similar terms or matters but rather as permitting it to refer to other items or matters that could reasonably fall within its scope;
- (c) a reference to currency means Canadian currency;
- (d) a reference to statute includes every regulation made pursuant thereto, all amendments to the statute or to any such regulation in force from time to time and any statute or regulation that supplements or supersedes such statute or any such regulation;
- (e) a reference to time or date is to the local time or date in Victoria, British Columbia;

- (f) a word importing the masculine gender includes the feminine or neuter, and a word importing the singular includes the plural and vice versa;
- (g) a reference to approval, authorization, consent, designation, waiver or notice means written approval, authorization, consent, designation, waiver or notice; and
- (h) a reference to Part means a Part of this Agreement and the word Section means a separately enumerated provision within a Part, and the words Section or Part followed by a number or some combination of numbers and letters refers to a Section or Part of this Agreement.

14.2 Notice

If sent as follows, notice under this Agreement is considered to be received:

- (a) seventy-two (72) hours after the time of its mailing (by registered mail) or faxing, and
- (b) on the date of delivery if it is hand-delivered,

If to the City:

City of Victoria
#1 Centennial Square
Victoria, B.C. V8W 1P6
Attention: Director of Planning and Development
Fax: 250-361-0386

if to the Developer:

Jawl Enterprises Ltd.
100 – 3350 Douglas Street
Victoria, B.C. V8Z 3L1
Attention: Robert K. Jawl
Fax: 250-475-0339

If a party identifies alternate contact information in writing, notice is to be given to that alternate address.

If normal mail service or facsimile service is interrupted by strike, work slowdown, force majeure, or other cause,

- (a) a notice sent by the impaired service is considered to be received on the date of delivery, and

- (b) the sending party must use its best efforts to ensure prompt receipt of a notice by using other uninterrupted services, or by hand-delivering the notice.

14.3 Time

Time is to be the essence of this Agreement.

14.4 Binding Effect

This Agreement shall be a covenant registered under section 219 of the *Land Title Act* running with the Land and therefore will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees and successors in title, but shall be binding upon the Developer only during their ownership of the Land.

14.5 Waiver

The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

14.6 Cumulative Remedies

No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.

14.7 Entire Agreement

This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date hereof with respect to the subject matter hereof and supersede all prior agreements and understandings among the parties with respect to the subject matter hereof and there are no oral or written agreements, promises, warranties, terms, conditions, representations or collateral agreements whatsoever, express or implied, other than those contained in this Agreement.

14.8 Further Assurances

Each of the parties will do, execute or deliver or cause to be done, executed and delivered all such further acts, documents and things as may be reasonably required from time to time to give effect to this Agreement.

14.9 Amendment

No amendment, waiver, termination or variation of the terms, conditions, warranties, covenants, agreements and undertakings set out herein will be of any force or effect unless they are reduced to in writing and duly executed by all parties to this Agreement.

14.10 Law Applicable

This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year first above written.

**THE CORPORATION OF THE CITY OF
VICTORIA** by its authorized signatories:

Mayor

Corporate Administrator

JAWL ENTERPRISES LTD. by
its authorized signatory:

Robert Jawl

SCHEDULE "A"

NO. 14-102

A BYLAW OF THE CITY OF VICTORIA

The purposes of this Bylaw are to amend the Zoning Regulation Bylaw by creating the CA-77 Zone, Douglas and Pandora Office District, and to rezone the lands known as 1515 Douglas Street and 750 Pandora Avenue from the CA-40 Zone, Pandora Office District and the CA-4 Zone, Central Area Commercial Office District to the CA-77 Zone, Douglas and Pandora District.

The Council of The Corporation of the City of Victoria enacts the following provisions:

- 1 This Bylaw may be cited as the "ZONING REGULATION BYLAW, AMENDMENT BYLAW (NO. 1022)".
- 2 Bylaw No. 80-159, the Zoning Regulation Bylaw, is amended in the Table of Contents of Schedule "B" under the caption PART 6 – CENTRAL AREA ZONES by adding the following words:

"6.89 CA-77 Douglas and Pandora Office District".
- 3 The Zoning Regulation Bylaw is also amended by adding to Schedule B after Part 6.88 the provisions contained in Schedule 1 of this Bylaw.
- 4 The lands known as 1515 Douglas Street and 750 Pandora Avenue, legally described as Lot 1 of Lot 1247, 1248 and 1257, Victoria City, Plan EPP27886 and shown hatched on the attached map, are removed from the CA-40 Zone, Pandora Office District, and the CA-4 Zone, Central Area Commercial Office District, and placed in the CA-77 Zone, Douglas and Pandora Office District.

READ A FIRST TIME the	day of	2014
READ A SECOND TIME the	day of	2014
Public hearing held on the	day of	2015
READ A THIRD TIME the	day of	2015
ADOPTED on the	day of	2015

CORPORATE ADMINISTRATOR

MAYOR

PART 6.89 – CA-77 ZONE, DOUGLAS AND PANDORA OFFICE DISTRICT

6.89.1 Development Areas

This Zone is divided into Development Areas A and B, as shown on the map attached as Appendix A.

6.89.2 General Regulations

- a. The regulations contained in Parts 6.89.3 to 6.89.7 apply in both Development Area A and Development Area B.
- b. The regulations contained in Parts 6.89.8 to 6.89.11 apply in Development Area A only.
- c. The regulations contained in Part 6.89.12 to 6.89.16 apply in Development Area B only.
- d. For the purposes of calculating floor space ratio in this Part 6.89, each Development Area shall be considered a separate lot.
- e. For the purposes of calculating Open Site Space and Site Coverage in this Part 6.89, each Development Area shall be considered a separate lot.

6.89.3 Permitted Uses in this Zone

The following uses are the only uses permitted in this Zone:

- a. The production and sale of bread, cakes and other bakery products provided that:
 - i. such products are at all times during normal business hours offered for sale by retail on the same premises
 - ii. not less than 10% of such bakery products are in the ordinary course of business sold by retail on the premises
 - iii. the building or buildings used for such purposes do not occupy more than 650m²
- b. Financial Services
- c. Medical office
- d. Office
- e. Multiple dwelling
- f. Transient accommodation and transient accommodation accessory uses
- g. Rental business
- h. Restaurant
- i. Kindergarten
- j. Theatres, auditoriums, gymnasiums and other places of recreation or worship
- k. Retail sales, other than gasoline and automotive fuels

PART 6.89 – CA-77 ZONE, DOUGLAS AND PANDORA OFFICE DISTRICT

- l. Drycleaning or clothes pressing or both, provided that:
 - i. the building or part of a building used for this purpose does not comprise more than 279m²
 - ii. no clothes are drycleaned or pressed unless they have been delivered to the premises by the customer
- m. Clubs
- n. Hospitals, private hospitals, nursing homes, intermediate care facilities and community care facilities
- o. Public Building
- p. High tech
- q. Call centre
- r. Home occupation subject to the regulations in Schedule "D"

6.89.4 Location of Permitted Uses

Dwelling units may only be located on the second or higher storeys of a building

6.89.5 Lot Area

Lot area (minimum) 2,785m²

6.89.6 Number of Buildings and Development Area Boundary

Notwithstanding section 19 of the General Regulations of the Zoning Regulation Bylaw,

- a. A lot may contain more than one building
- b. A building may straddle a lot line or a Development Area boundary

6.89.7 Vehicle and Bicycle Parking

- a. Multiple dwelling (minimum) 0.7 spaces per unit
- b. Transient Accommodation (minimum) 0.5 spaces per unit
- c. Bicycle parking (minimum) Subject to the regulations in Schedule "C" of the Zoning Regulation Bylaw
- d. Parking may be located on any lot within this CA-77 Zone regardless of the lot where the parking is actually required, provided it is secured by an easement and a covenant in

Words that are underlined see definitions in Schedule "A" of the Zoning Regulation Bylaw

PART 6.89 – CA-77 ZONE, DOUGLAS AND PANDORA OFFICE DISTRICT

accordance with Schedule "C" of the Zoning Regulation Bylaw.

- e. A parking stall may be bisected by a lot line.

Development Area A**6.89.8 Community Amenities**

As a condition of additional density pursuant to part 6.89.9.b, the following amenities must be provided:

- a. 140 enclosed parking spaces below grade, in addition to the parking requirements contained in Part 6.89.7
- b. 34 storage lockers for use by cyclists
- c. 34 Class 1 bicycle parking stalls

6.89.9 Floor Space Ratio, Floor Area

- a. Floor space ratio where the amenities have not been provided pursuant to part 6.89.8 (maximum) 2.91:1
- b. Floor space ratio where the amenities have been provided pursuant to part 6.89.8 (maximum) 3.7:1
- c. Of the total floor area, the floor area permitted for residential use (maximum) 7,468m²
- d. Up to 258m² of floor area dedicated for use as a mechanical equipment room on the upper most storey of a building shall be excluded from the calculation of floor area in Parts 6.89.9 a., b. and c.

6.89.10 Height

Principal building height (maximum) 29m

6.89.11 Site Coverage and Open Site Space

- a. Site Coverage (maximum) 78%
- b. Open site space (minimum) 20%

PART 6.89 – CA-77 ZONE, DOUGLAS AND PANDORA OFFICE DISTRICT

Development Area B

6.89.12 Community Amenities

- a. As a condition of additional density pursuant to part 6.89.13.b, the following amenity must be provided:

A pedestrian walkway open to the public that:

- i. connects the street levels of Pandora Avenue and Cormorant Street
- ii. is at least 3m wide throughout
- iii. has an average width of at least 3.7m
- iv. is secured by a statutory right of way and covenant under sections 218 and 219 of the *Land Title Act* (British Columbia)

6.89.13 Floor Space Ratio, Floor Area

- a. Floor space ratio where the amenity has not been provided pursuant to part 6.89.12 (maximum) 2.86:1
- b. Floor space ratio where the amenity has been provided pursuant to part 6.89.12 (maximum) 5.88:1
- c. Up to 400m² of floor area dedicated for use as a mechanical equipment room on the upper most storey of a building shall be excluded from the calculation of floor area under Parts 6.89.13 a. and b.

6.89.14 Height

Principal building height (maximum) 56.5m

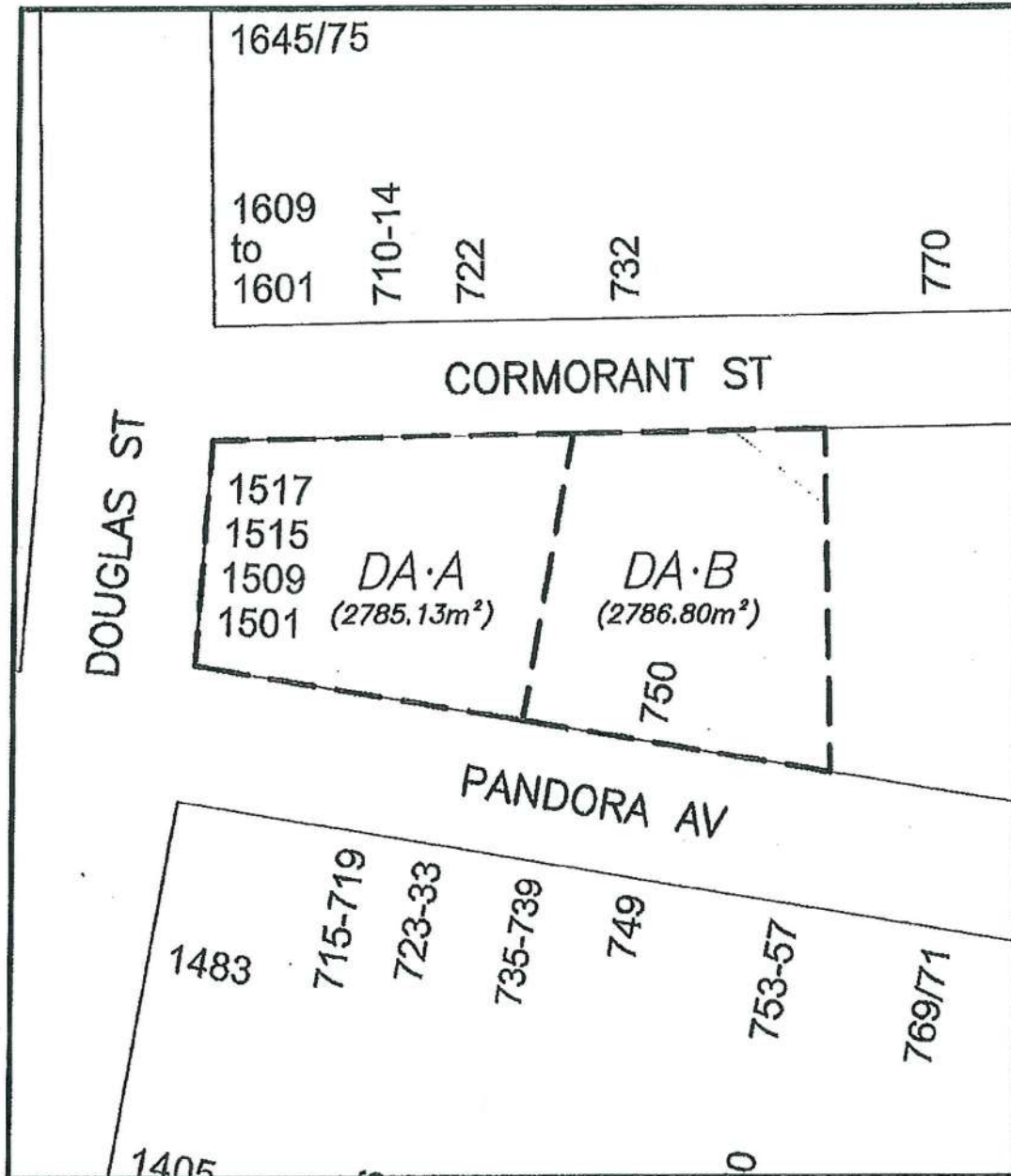
6.89.15 Setbacks

Side yard setback from interior lot lines (east) (minimum) 5m

6.89.16 Site Coverage and Open Site Space

- a. Site Coverage (maximum) 61%
- b. Open site space (minimum) 36%

PART 6.89 – CA-77 ZONE, DOUGLAS AND PANDORA OFFICE DISTRICT



Appendix A

Development Areas

CD-77 Zone, Douglas and Pandora Office District



NO. 14-103

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the Official Community Plan by removing guidelines that apply to development in Development Permit Area 2(HC): Core Business.

Under its statutory powers, including sections 875 to 878, and 919.1 to 920 of the *Local Government Act*, the Council of the Corporation of the City of Victoria enacts the following provisions:

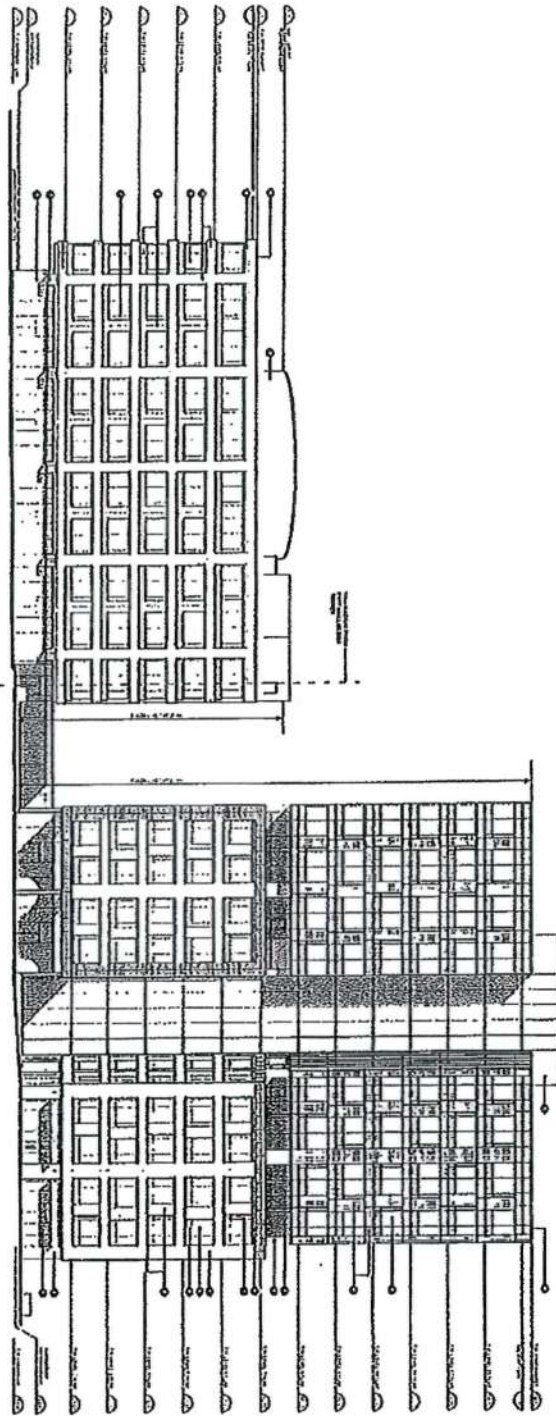
- 1 This Bylaw may be cited as the "OFFICIAL COMMUNITY PLAN BYLAW, 2012, AMENDMENT BYLAW (NO. 9)".
- 2 Bylaw No. 12-013, the Official Community Plan Bylaw, 2012, is amended in Appendix A: Development Permit Areas and Heritage Conservation Areas, DPA 2(HC): Core Business, in Section 5. Guidelines by striking out the following:

"Urban Design Guidelines for Proposed Subdivision and Rezoning of the 700 Block Pandora/Cormorant Street, and 1520 Blanshard Street."

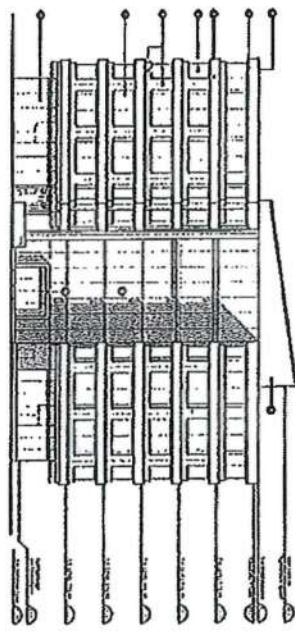
READ A FIRST TIME the	day of	2014.
READ A SECOND TIME the	day of	2014.
Public hearing held on the	day of	2015.
READ A THIRD TIME the	day of	2015.
ADOPTED on the	day of	2015.

CORPORATE ADMINISTRATOR

MAYOR



South Elevation (Perspective)
Scale: 1/8" = 1'-0"



West Elevation (Perspective)
Scale: 1/8" = 1'-0"

MATERIALS KEY:

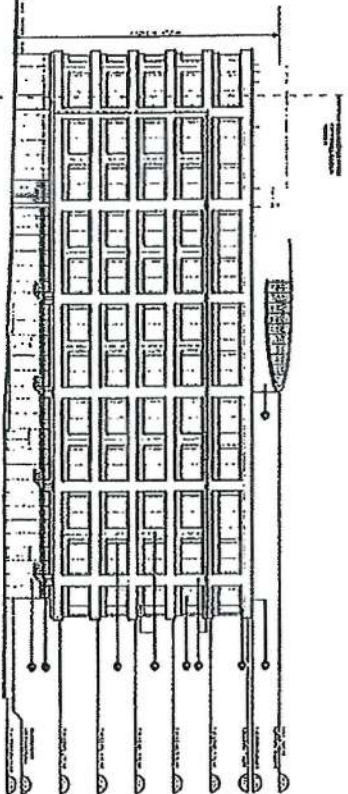
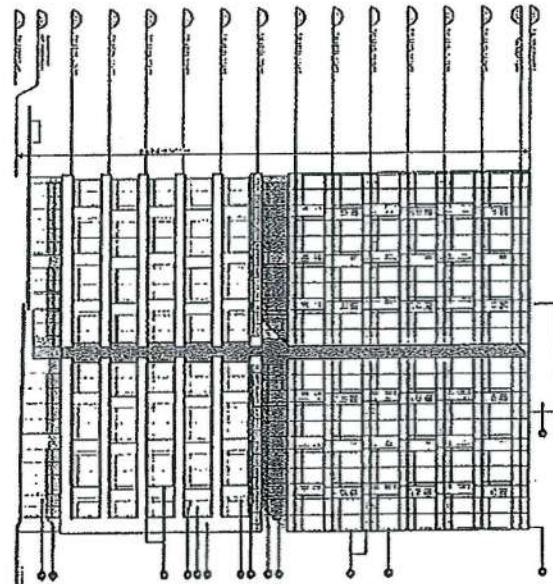
1. GLAZED TERRAZZO CLADDING PANEL CLAD	2. GLAZED TERRAZZO PANEL VERTICAL BACK PANEL
3. OPPOSED CLADDING CONCRETE	4. PLUMB BRICK, REFINISHED ALUMINUM CORNER COLOUR
5. STONE CLADDING	6. REFINISHED METAL CLADDING
7. REFINISHED METAL CLADDING	8. REFINISHED METAL CLADDING
9. 250 GROUND WALL SYSTEM, CLEAR HIGH-PERFORMANCE GLASS	

NOTES:
1. ALL MATERIALS TO BE SUPPLIED BY THE CONTRACTOR.
2. ALL MATERIALS TO BE INSTALLED BY THE CONTRACTOR.
3. ALL MATERIALS TO BE MAINTAINED BY THE CONTRACTOR.

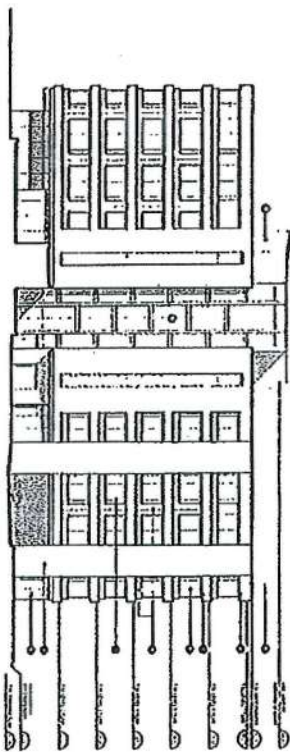
NO.	REVISION	DATE	BY	CHKD.
1	ISSUED FOR PERMIT	10/1/2010	J. SMITH	M. JONES

7015 Douglas Street
Building Division
728 Prince George Street
Vancouver, BC V6C 2K6
Tel: 604-675-2400
Fax: 604-675-2401
Email: building@vancouver.ca

DATE	10/1/2010
BY	J. SMITH
CHKD.	M. JONES
APP'D.	



1 North Cleaveland (Cormorants)
- 1200



Case: Elevation Phase 1 - T315 Douglas
Selling Point

MATERIALS KEY:

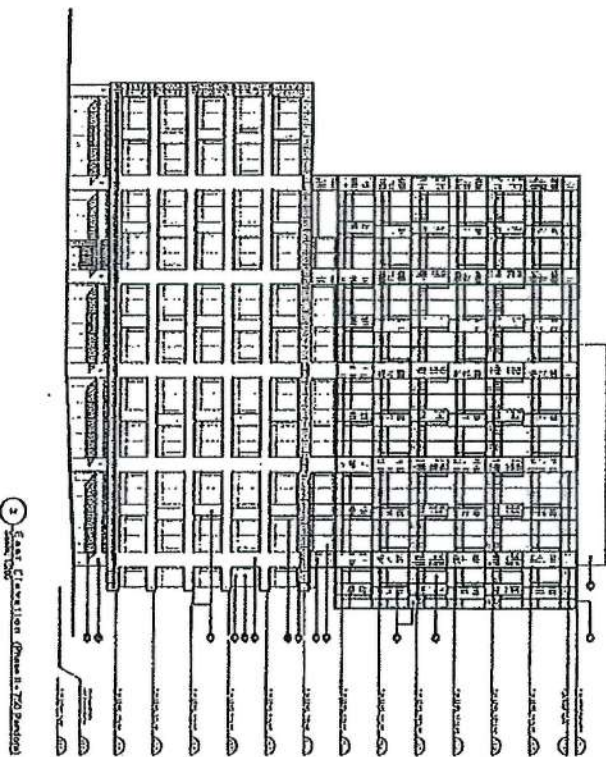
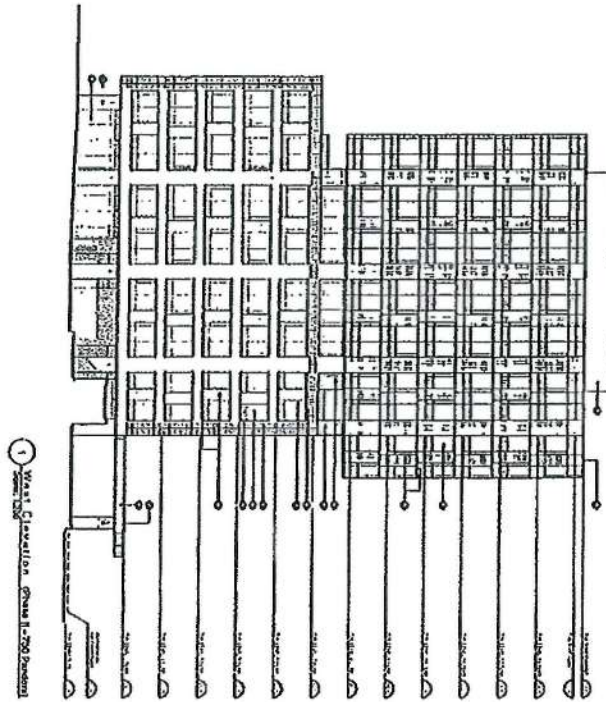
- [illegible]

PHARMACON, INC., BETHESDA, MD
 STRICTLY PROPRIETARY. DO NOT REPRODUCE AND
 DO NOT DISCLOSE OR USE IN ANY MANNER WITHOUT
 THE WRITTEN CONSENT OF PHARMACON, INC.
 OR ITS SUBSIDIARIES.

1	1. The first part of the paper is devoted to a review of the literature on the effects of the 1997-1998 Asian financial crisis on the economies of the Asian countries.
2	2. The second part of the paper is devoted to a review of the literature on the effects of the 1997-1998 Asian financial crisis on the economies of the Asian countries.
3	3. The third part of the paper is devoted to a review of the literature on the effects of the 1997-1998 Asian financial crisis on the economies of the Asian countries.
4	4. The fourth part of the paper is devoted to a review of the literature on the effects of the 1997-1998 Asian financial crisis on the economies of the Asian countries.
5	5. The fifth part of the paper is devoted to a review of the literature on the effects of the 1997-1998 Asian financial crisis on the economies of the Asian countries.
6	6. The sixth part of the paper is devoted to a review of the literature on the effects of the 1997-1998 Asian financial crisis on the economies of the Asian countries.
7	7. The seventh part of the paper is devoted to a review of the literature on the effects of the 1997-1998 Asian financial crisis on the economies of the Asian countries.
8	8. The eighth part of the paper is devoted to a review of the literature on the effects of the 1997-1998 Asian financial crisis on the economies of the Asian countries.
9	9. The ninth part of the paper is devoted to a review of the literature on the effects of the 1997-1998 Asian financial crisis on the economies of the Asian countries.
10	10. The tenth part of the paper is devoted to a review of the literature on the effects of the 1997-1998 Asian financial crisis on the economies of the Asian countries.

[illegible]

21313	21314	21315	21316	21317	21318	21319	21320	21321	21322	21323	21324	21325	21326	21327	21328	21329	21330	21331	21332	21333	21334	21335	21336	21337	21338	21339	21340	21341	21342	21343	21344	21345	21346	21347	21348	21349	21350	21351	21352	21353	21354	21355	21356	21357	21358	21359	21360	21361	21362	21363	21364	21365	21366	21367	21368	21369	21370	21371	21372	21373	21374	21375	21376	21377	21378	21379	21380	21381	21382	21383	21384	21385	21386	21387	21388	21389	21390	21391	21392	21393	21394	21395	21396	21397	21398	21399	21400	21401	21402	21403	21404	21405	21406	21407	21408	21409	21410	21411	21412	21413	21414	21415	21416	21417	21418	21419	21420	21421	21422	21423	21424	21425	21426	21427	21428	21429	21430	21431	21432	21433	21434	21435	21436	21437	21438	21439	21440	21441	21442	21443	21444	21445	21446	21447	21448	21449	21450	21451	21452	21453	21454	21455	21456	21457	21458	21459	21460	21461	21462	21463	21464	21465	21466	21467	21468	21469	21470	21471	21472	21473	21474	21475	21476	21477	21478	21479	21480	21481	21482	21483	21484	21485	21486	21487	21488	21489	21490	21491	21492	21493	21494	21495	21496	21497	21498	21499	21500	21501	21502	21503	21504	21505	21506	21507	21508	21509	21510	21511	21512	21513	21514	21515	21516	21517	21518	21519	21520	21521	21522	21523	21524	21525	21526	21527	21528	21529	21530	21531	21532	21533	21534	21535	21536	21537	21538	21539	21540	21541	21542	21543	21544	21545	21546	21547	21548	21549	21550	21551	21552	21553	21554	21555	21556	21557	21558	21559	21560	21561	21562	21563	21564	21565	21566	21567	21568	21569	21570	21571	21572	21573	21574	21575	21576	21577	21578	21579	21580	21581	21582	21583	21584	21585	21586	21587	21588	21589	21590	21591	21592	21593	21594	21595	21596	21597	21598	21599	21600	21601	21602	21603	21604	21605	21606	21607	21608	21609	21610	21611	21612	21613	21614	21615	21616	21617	21618	21619	21620	21621	21622	21623	21624	21625	21626	21627	21628	21629	21630	21631	21632	21633	21634	21635	21636	21637	21638	21639	21640	21641	21642	21643	21644	21645	21646	21647	21648	21649	21650	21651	21652	21653	21654	21655	21656	21657	21658	21659	21660	21661	21662	21663	21664	21665	21666	21667	21668	21669	21670	21671	21672	21673	21674	21675	21676	21677	21678	21679	21680	21681	21682	21683	21684	21685	21686	21687	21688	21689	21690	21691	21692	21693	21694	21695	21696	21697	21698	21699	21700	21701	21702	21703	21704	21705	21706	21707	21708	21709	21710	21711	21712	21713	21714	21715	21716	21717	21718	21719	21720	21721	21722	21723	21724	21725	21726	21727	21728	21729	21730	21731	21732	21733	21734	21735	21736	21737	21738	21739	21740	21741	21742	21743	21744	21745	21746	21747	21748	21749	21750	21751	21752	21753	21754	21755	21756	21757	21758	21759	21760	21761	21762	21763	21764	21765	21766	21767	21768	21769	21770	21771	21772	21773	21774	21775	21776	21777	21778	21779	21780	21781	21782	21783	21784	21785	21786	21787	21788	21789	21790	21791	21792	21793	21794	21795	21796	21797	21798	21799	21800	21801	21802	21803	21804	21805	21806	21807	21808	21809	21810	21811	21812	21813	21814	21815	21816	21817	21818	21819	21820	21821	21822	21823	21824	21825	21826	21827	21828	21829	21830	21831	21832	21833	21834	21835	21836	21837	21838	21839	21840	21841	21842	21843	21844	21845	21846	21847	21848	21849	21850	21851	21852	21853	21854	21855	21856	21857	21858	21859	21860	21861	21862	21863	21864	21865	21866	21867	21868	21869	21870	21871	21872	21873	21874	21875	21876	21877	21878	21879	21880	21881	21882	21883	21884	21885	21886	21887	21888	21889	21890	21891	21892	21893	21894	21895	21896	21897	21898	21899	21900	21901	21902	21903	21904	21905	21906	21907	21908	21909	21910	21911	21912	21913	21914	21915	21916	21917	21918	21919	21920	21921	21922	21923	21924	21925	21926	21927	21928	21929	21930	21931	21932	21933	21934	21935	21936	21937	21938	21939	21940	21941	21942	21943	21944	21945	21946	21947	21948	21949	21950	21951	21952	21953	21954	21955	21956	21957	21958	21959	21960	21961	21962	21963	21964	21965	21966	21967	21968	21969	21970	21971	21972	21973	21974	21975	21976	21977	21978	21979	21980	21981	21982	21983	21984	21985	21986	21987	21988	21989	21990	21991	21992	21993	21994	21995	21996	21997	21998	21999	22000	22001	22002	22003	22004	22005	22006	22007	22008	22009	22010	22011	22012	22013	22014	22015	22016	22017	22018	22019	22020	22021	22022	22023	22024	22025	22026	22027	22028	22029	22030	22031	22032	22033	22034	22035	22036	22037	22038	22039	22040	22041	22042	22043	22044	22045	22046	22047	22048	22049	22050	22051	22052	22053	22054	22055	22056	22057	22058	22059	22060	22061	22062	22063	22064	22065	22066	22067	22068	22069	22070	22071	22072	22073	22074	22075	22076	22077	22078	22079	22080	22081	22082	22083	22084	22085	22086	22087	22088	22089	22090	22091	22092	22093	22094	22095	22096	22097	22098	22099	22100	22101	22102	22103	22104	22105	22106	22107	22108	22109	22110	22111	22112	22113	22114	22115	22116	22117	22118	22119	22120	22121	22122	22123	22124	22125	22126	22127	22128	22129	22130	22131	22132	22133	22134	22135	22136	22137	22138	22139	22140	22141	22142	22143	22144	22145	22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MATERIALS KEY:

- 1 GLASS TONALIGHT GLASSING PANEL, ALUM.
- 2 EXPOSED CAST-IN-PLACE CONCRETE
- 3 STONE CLADDING
- 4 PRECASTED CONCRETE CLADDING
- 5 STEEL CURTAIN WALL SYSTEM, CLEAR INSULATION GLASSING
- 6 GLASS SPANDREL PANEL WITH METAL BACK PANEL
- 7 FRAMED GROUND, FURNISHED ALUMINUM CORNER COILING
- 8 FURNISHED METAL FLASHING
- 9 FURNISHED METAL CLADDING

NOTES:
1. ALL MATERIALS AND FINISHES TO BE AS SHOWN ON THE DRAWINGS.
2. ALL MATERIALS AND FINISHES TO BE AS SHOWN ON THE DRAWINGS.
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10. ALL MATERIALS AND FINISHES TO BE AS SHOWN ON THE DRAWINGS.

NO.	REVISION	DATE	BY	CHKD.	APP'D.
1	Initial Design	10/1/00	J. Smith	M. Jones	J. Smith
2	Final Design	10/1/00	J. Smith	M. Jones	J. Smith
3	Construction Documents	10/1/00	J. Smith	M. Jones	J. Smith
4	Construction Documents	10/1/00	J. Smith	M. Jones	J. Smith
5	Construction Documents	10/1/00	J. Smith	M. Jones	J. Smith
6	Construction Documents	10/1/00	J. Smith	M. Jones	J. Smith
7	Construction Documents	10/1/00	J. Smith	M. Jones	J. Smith
8	Construction Documents	10/1/00	J. Smith	M. Jones	J. Smith
9	Construction Documents	10/1/00	J. Smith	M. Jones	J. Smith
10	Construction Documents	10/1/00	J. Smith	M. Jones	J. Smith

