



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

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

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

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### **Executive Summary**

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

The key issues associated with this application are:

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

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

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

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

### **Recommendations**

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

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

Respectfully submitted,



Murray G. Miller  
Senior Heritage Planner  
Community Planning Division

Att.



Deb Day  
Director  
Sustainable Planning and  
Community Development Department

Report accepted and recommended by the City Manager: \_\_\_\_\_



Jason Johnson

Date: \_\_\_\_\_

August 14, 2014

MGM/ljm

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## **1.0 Purpose**

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

## **2.0 Background**

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

### **2.1 Description of Proposal**

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

### **2.2 Consistency with City Policy**

#### **2.2.1 Official Community Plan (OCP)**

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

#### **2.2.2 Downtown Core Area Plan (DCAP)**

##### Public Outward View - Policies

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

##### Outdoor Dining Areas

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



## **2.3 Review by Heritage Advisory Panel**

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

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

## **3.0 Issues**

The key issues associated with this application are:

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

## **4.0 Analysis**

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

## **5.0 Discussion**

### **5.1 Unpermitted Work**

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

### **5.2 Physical Impact on the Reid Block**

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

### **5.3 Visual Impact on the Setting of Bastion Square**

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

### **5.4 Encroachment into the View Context of a Public Outward View**

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

## **6.0 Conclusions**

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

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

## **7.0 Staff Recommendations**

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



## **8.0 Alternate Recommendations**

### Option 1

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

### Option 2

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

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

## **9.0 List of Attachments**

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

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



 Designated       Registered











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

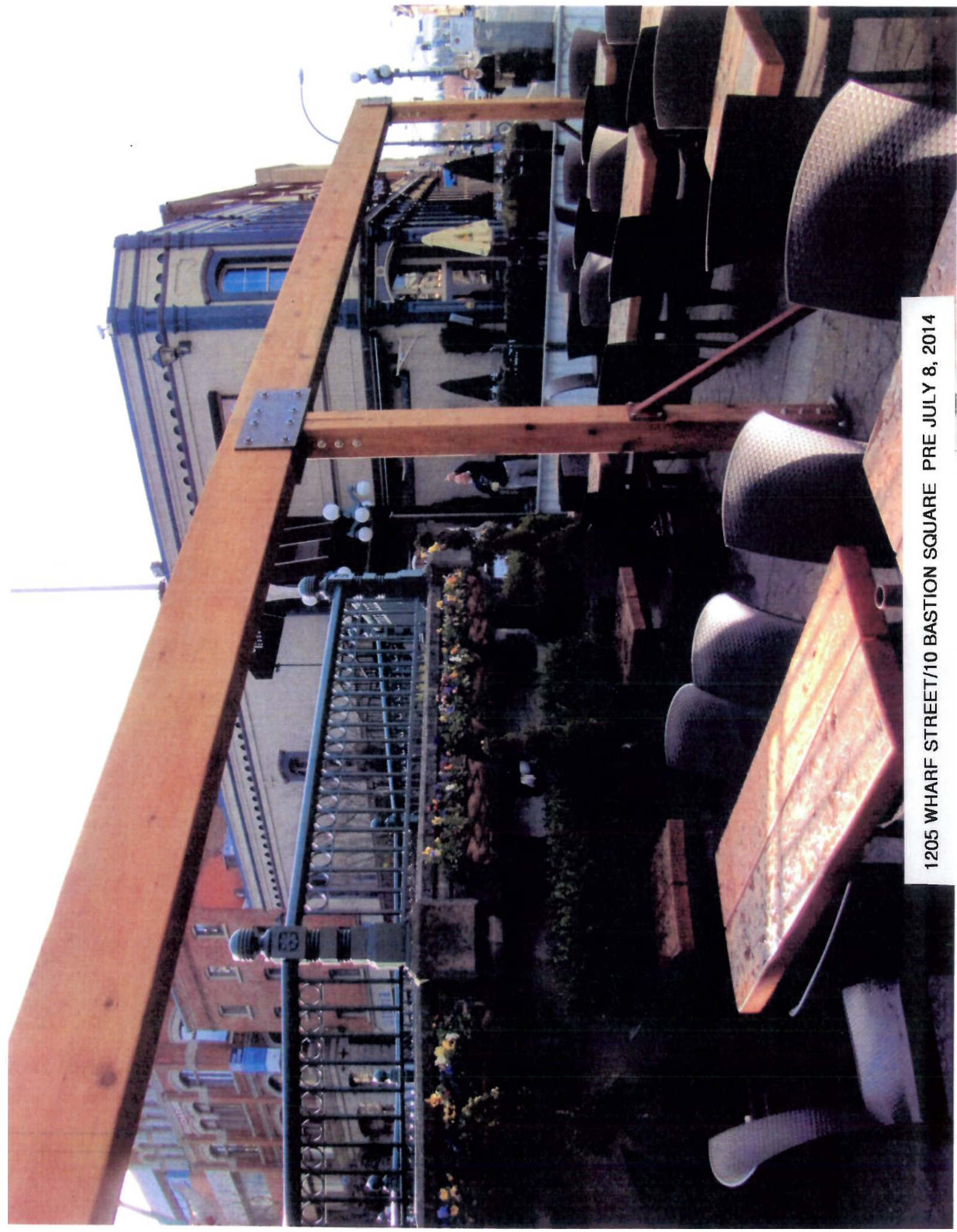




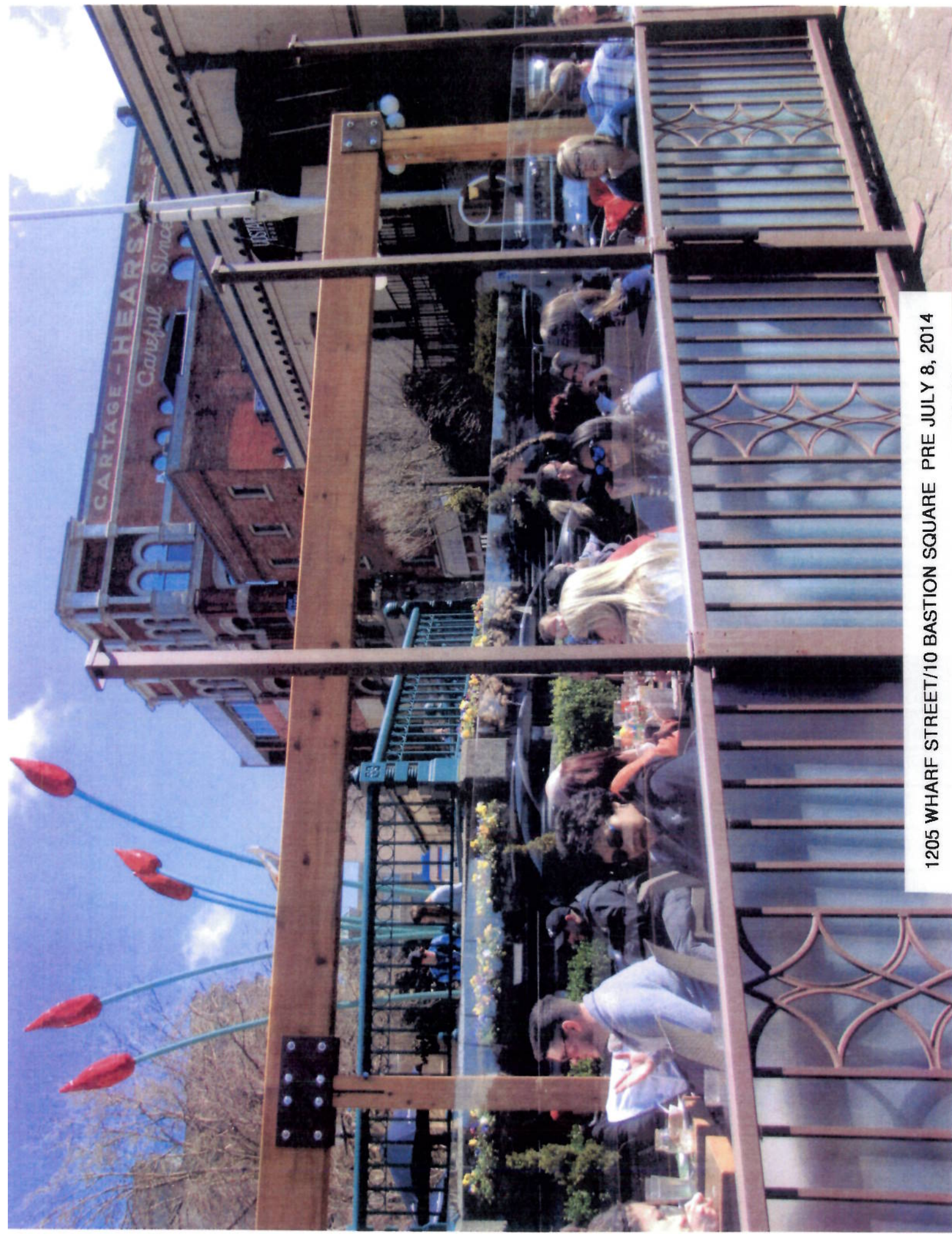
1205 WHARF STREET/10 BASTION SQUARE PRE JULY 8, 2014



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







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





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



**View 1: HARBOUR VIEW FROM BASTION SQUARE**

Looking west from Bastion Square

**Character-Defining Elements:**

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



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





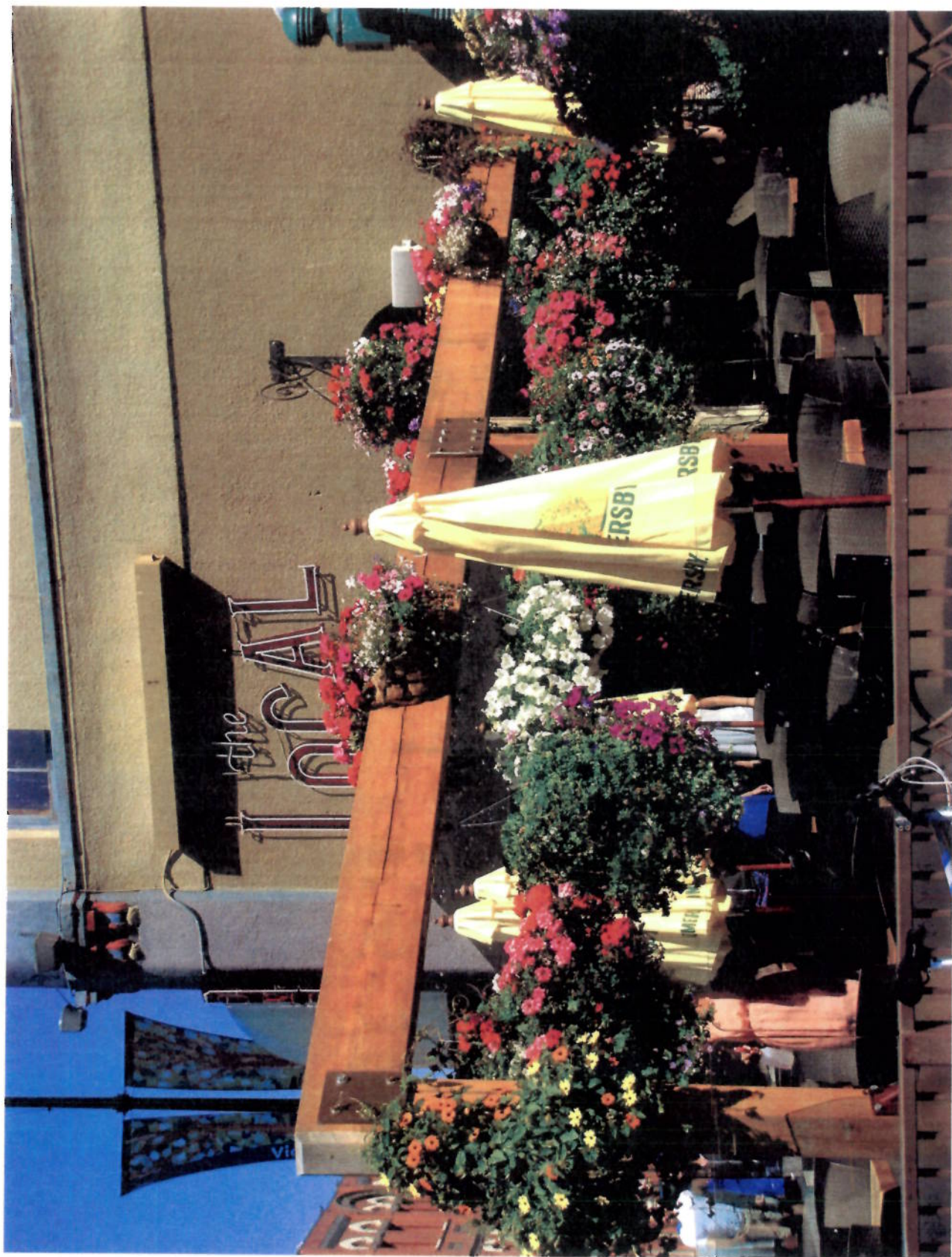
1205 Wharf Street/10 Bastion Square - August 7, 2014





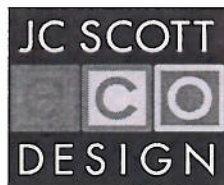
1205 Wharf Street/10 Bastion Square - August 7, 2014





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





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

02 July, 2014

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

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

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

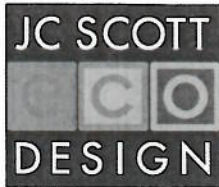
There is an attached rendering showing the intended trellis and patio heaters from 2011. This rendering has been on file with the city for well over three years. Patio and sidewalk cafes are primarily a seasonal business unless they are enclosed by tents in cities like Vancouver or with a structure like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

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

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

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





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

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

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

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

Yours truly,

JC Scott

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

cc:

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





JUN 20 2014

Planning & Development Department  
Development Services Division

**rjc** **Read Jones Christoffersen**  
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**Project Name**  
**THE LOCAL**

**Sketch Title**  
**TRELLIS D**

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

Drawn By DWW  
 Scale NTS  
 Date MARCH 12, 2014  
 Project No. VIC.110665.0001  
 Sketch Number Rev.  
 SK01

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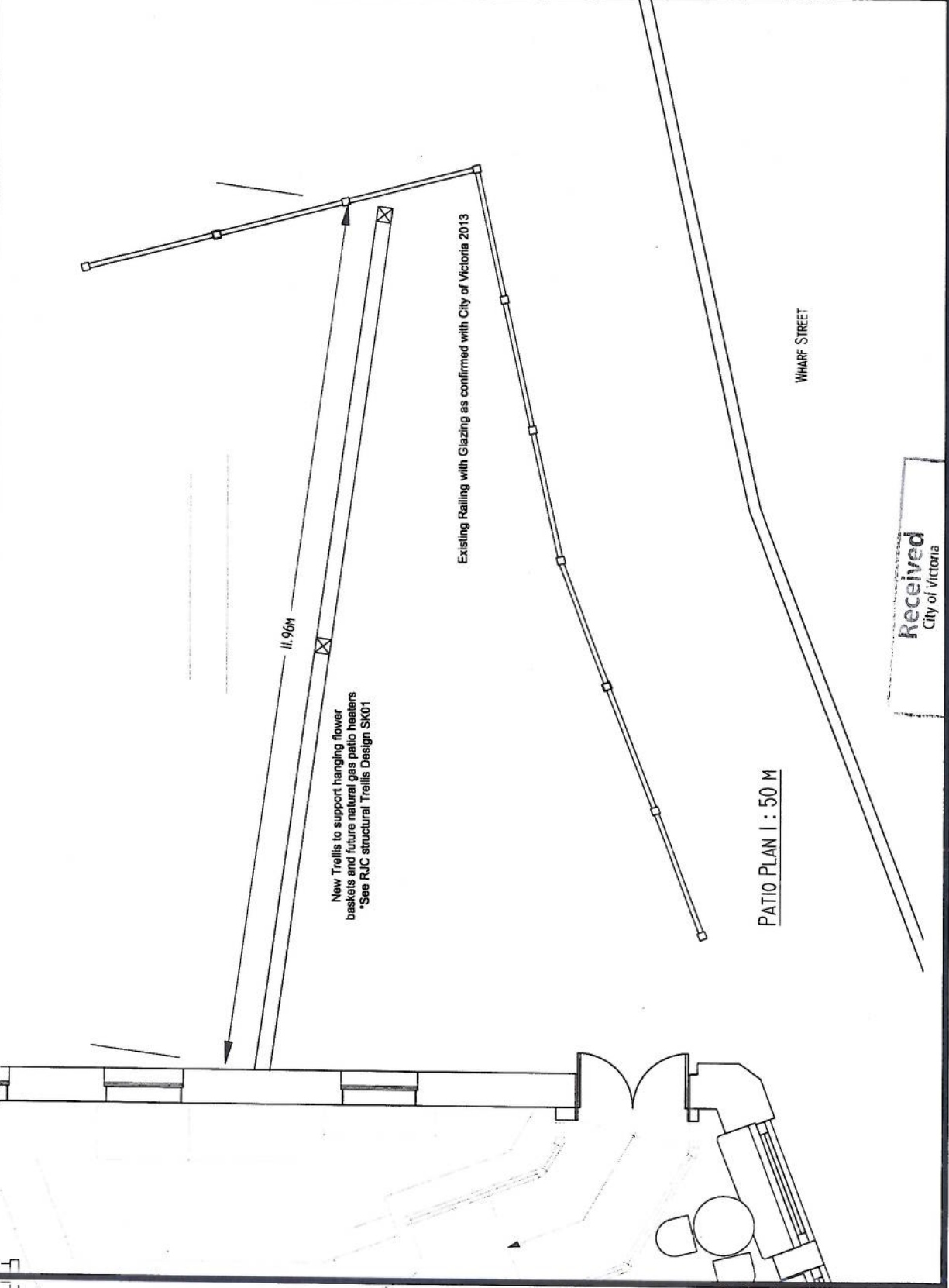


**DISCLAIMER:**  
It is the responsibility of the contractor to check and confirm all drawings, details and specifications prior to the commencement of any work and report any and all errors, omissions and discrepancies to the designer. In addition, all measurements must be confirmed on site.

Revisions

**JC Scott eco Design**  
17 1/2 Fan Tan Alley, Victoria, BC V8W 3G9  
P(250) 385-9545 F(250) 385-9575  
E: jcs@jcscoff.com W: www.jcscoff.com

PROJECT	THE LOCAL - WHARF ST
TITLE	PATIO / SITE PLAN
DATE	20 - JUNE - 2014
SCALE	AS SHOWN
DRAWN BY	JCS/SMP
CHECKED BY	JCS
DRAWING #	ID 1.01



**Received**  
City of Victoria  
JUN 20 2014  
Planning & Development Department  
Development Services Division

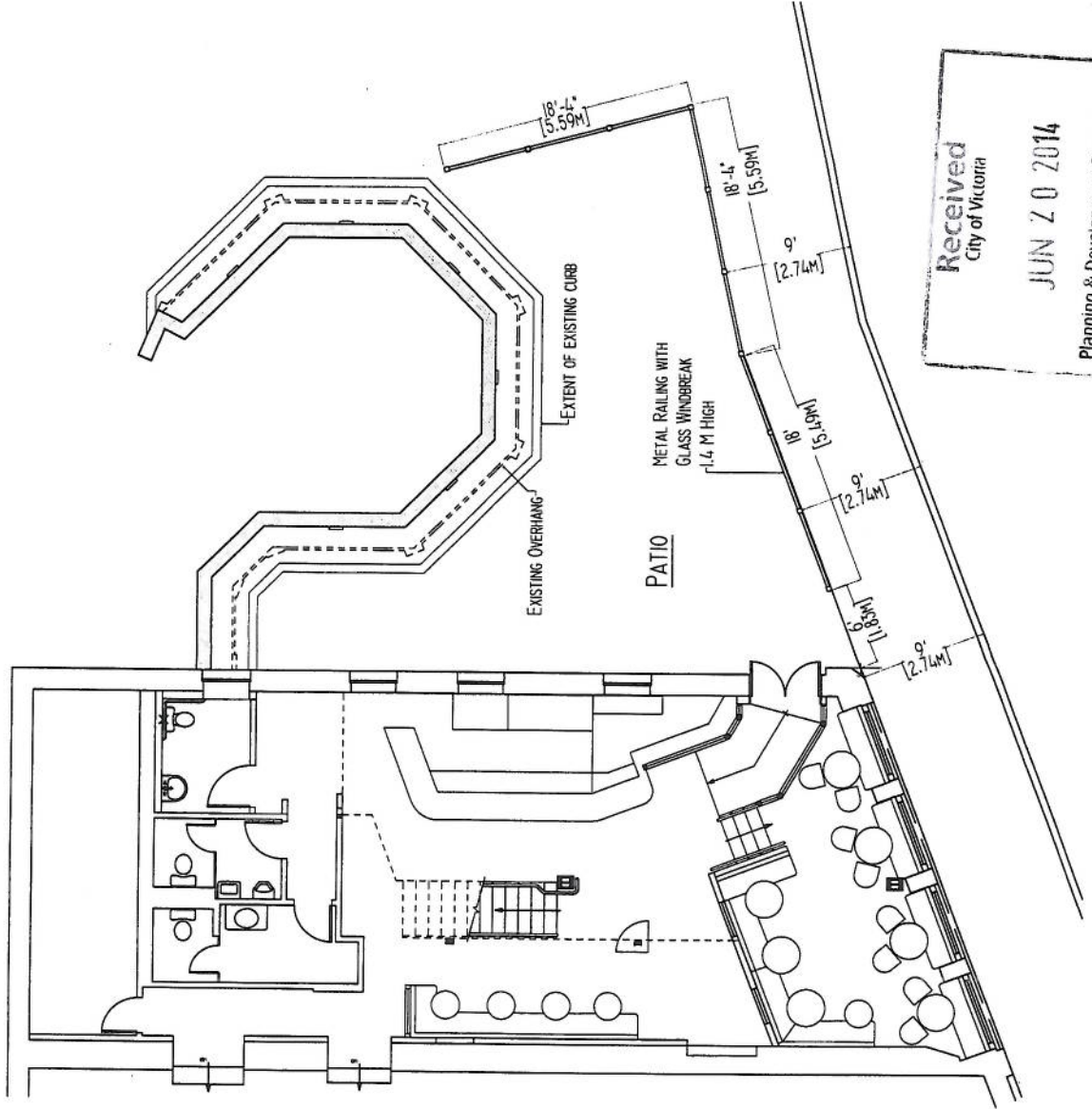


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Revisions

**JC Scott ECO Design**  
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E: jscott@jscott.com W: www.jscott.com

PROJECT	THE LOCAL
TITLE	PATIO PLAN
DATE	22 MAY 2013
SCALE	1:100
DRAWN BY	ASF / JCS
CHECKED BY	JCS
DRAWING #	AI.01



**Received**  
City of Victoria  
JUN 20 2014  
Planning & Development Department  
Development Services Division

**THE LOCAL: PATIO PLAN**  
SCALE 1:100



## **Statements of Significance**

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

#### **Description**

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

#### **Heritage Value**

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

#### **Character-Defining Elements**

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

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



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

### **Description**

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

### **Heritage Value**

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

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

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

### **Character-Defining Elements**

The character-defining elements of the Reid Block include:

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