



**Planning and Land Use Committee Report
For the Meeting of July 17, 2014**

Date: July 16, 2014 **From:** Murray G. Miller, Senior Heritage Planner

Subject: **520 Niagara Street, Building Permit Application #050924**
Proposal to demolish a building listed on the City's Heritage Register
Heritage-Registered Building within DPA 16: General Form and Character
Zoned: R-2 Two Family Dwelling District

Executive Summary

The purpose of this report is to present Council with information, analysis and recommendations regarding a Building Permit Application to demolish the St. James Mission of Christ Church Cathedral School (the "Cathedral School") located at 520 Niagara Street. The building is listed on the City's Heritage Register, but not protected through Heritage Designation. An application to demolish a Heritage-Registered building that is not within a Heritage Conservation Area cannot be prevented under the present legislative authority unless the City adopts a Heritage Designation Bylaw to protect the building. Designation imposed by the City could lead to potential compensation to the landowner.

The City's Heritage Program has generally sought to achieve protection of heritage resources through designation by landowners voluntarily. In this case, voluntary designation has not been possible. Given that the approach of seeking voluntary designation has not been successful and the potential costs to the City of designation without the landowner's consent, staff recommend that the Building Permit Application for demolition proceed. Council has the option to temporarily withhold the Permit and give temporary protection for up to 60 days in accordance with Section 961 (1)(b) of the *Local Government Act* should Council desire an assessment of the heritage value of the property and potential compensation values, to assist with making a decision on this matter.

Recommendation

That Building Permit Application #050924 for 520 Niagara Street proceed.

Respectfully submitted,

Murray G. Miller
Senior Heritage Planner
Community Planning

Deb Day
Director
Sustainable Planning and Community Development

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

Date: _____
July 16, 2014

MGM/ljm

1.0 Purpose

The purpose of this report is to present Council with information, analysis and recommendations regarding an application to demolish the Heritage-Registered property located at 520 Niagara Street.

2.0 Background

2.1 Description of Proposal

The applicant intends to demolish the St. James Mission of Christ Church Cathedral School (the "Cathedral School") and construct a single family dwelling.

2.2 Consistency with City Policy and Guidelines

2.2.1 Official Community Plan (OCP)

The subject property is within Development Permit Area 16: Form and Character. The subject property is not within a Heritage Conservation Area (HCA). The proposed development is inconsistent with the broad objectives of Placemaking in relation to the conservation of heritage property and adaptation of existing building stock.

2.2.2 James Bay Neighbourhood Plan

The proposal may not align with the goals and objectives of the *James Bay Neighbourhood Plan* where it encourages the conservation and rehabilitation of places of heritage value. While this property was determined to have sufficient heritage value that warranted its placement on the Heritage Register, its value is not fully understood given that a Statement of Significance has not been prepared.

2.3 Development Potential

This property is in the R-2 Zone, Two Family Dwelling District which permits "public buildings" (reflecting the current use), uses permitted in the R1-B Zone, Single Family Dwelling District, or a "two family dwelling". If the existing Cathedral School were removed, the property has sufficient site area and lot width to qualify for the establishment of a two family dwelling (subject to meeting all other zoning requirements).

3.0 Issues

The key issues associated with this application are:

- Lack of protection for a Heritage-Registered property outside of an HCA
- Potential loss of a Heritage-Registered property
- The significance of the Heritage-Registered property.

4.0 Analysis

4.1 Lack of Protection for a Heritage-Registered Property Outside of an HCA

A Heritage-Registered property is officially listed on the City's Heritage Register because it may have sufficient heritage value to warrant conservation actions in the future. The Cathedral

School is identified as a Registered Heritage Property in the City's Heritage Register. The property is designated within a Development Permit Area, but is not within a designated HCA. An application to demolish a Heritage-Registered building that is not within an HCA cannot be prevented under the present legislative authority.

However, temporary protection can be sought in accordance with Section 961 (1)(b) of the *Local Government Act* which authorizes municipalities to temporarily withhold a Demolition or Building Permit and to give temporary protection for up to 60 days in order to make a decision on the matter. The temporary protection could be used to undertake an assessment of the heritage values of the property and potential compensation values to assist Council with making a decision on this matter.

4.2 Potential Loss of a Heritage-Registered Property

The potential loss of a Heritage-Registered property would have an immediate adverse effect on the resource and would affect the character and appearance of the immediate neighbourhood.

4.3 The Significance of the Heritage-Registered Property

The Cathedral School was designed by Percy Leonard James in 1939 and was determined to be of sufficient heritage value to be added to the Register. The recognized practice of describing the significance of a place takes the form of a Statement of Significance. This standardized approach is reflected in Parks Canada's *Writing Statements of Significance*. Some of the City's Heritage Register properties do not have Statements of Significance. The Cathedral School is one such example where a Statement of Significance has not been prepared.

5.0 Conclusions

The building is listed on the City's Heritage Register, but not protected through Heritage Designation. An application to demolish a Heritage-Registered building that is not within an HCA cannot be prevented under the present legislative authority unless the City adopts a Heritage Designation Bylaw to protect the building, which could lead to potential compensation to the landowner.

While the proposed demolition of a Heritage Register building is not consistent with the City's policies that encourage conservation and rehabilitation of places of heritage value, there are other practical considerations that come to bear. The City's Heritage Program has generally sought to achieve protection of heritage resources through designation by landowners voluntarily. In this case, voluntary designation has not been possible and imposed designation may result in compensation by the City to the landowner. Given this potential, staff recommend that the Building Permit Application for demolition proceed.

Council has the option to temporarily withhold the Permit and give temporary protection for up to 60 days in accordance with Section 961 (1)(b) of the *Local Government Act* should Council desire an assessment of the heritage value of the property and potential compensation values, to assist with making a decision on this matter. This option is provided in the Alternate Recommendation, noted below.

6.0 Staff Recommendation

That Building Permit Application #050924 for 520 Niagara Street proceed.

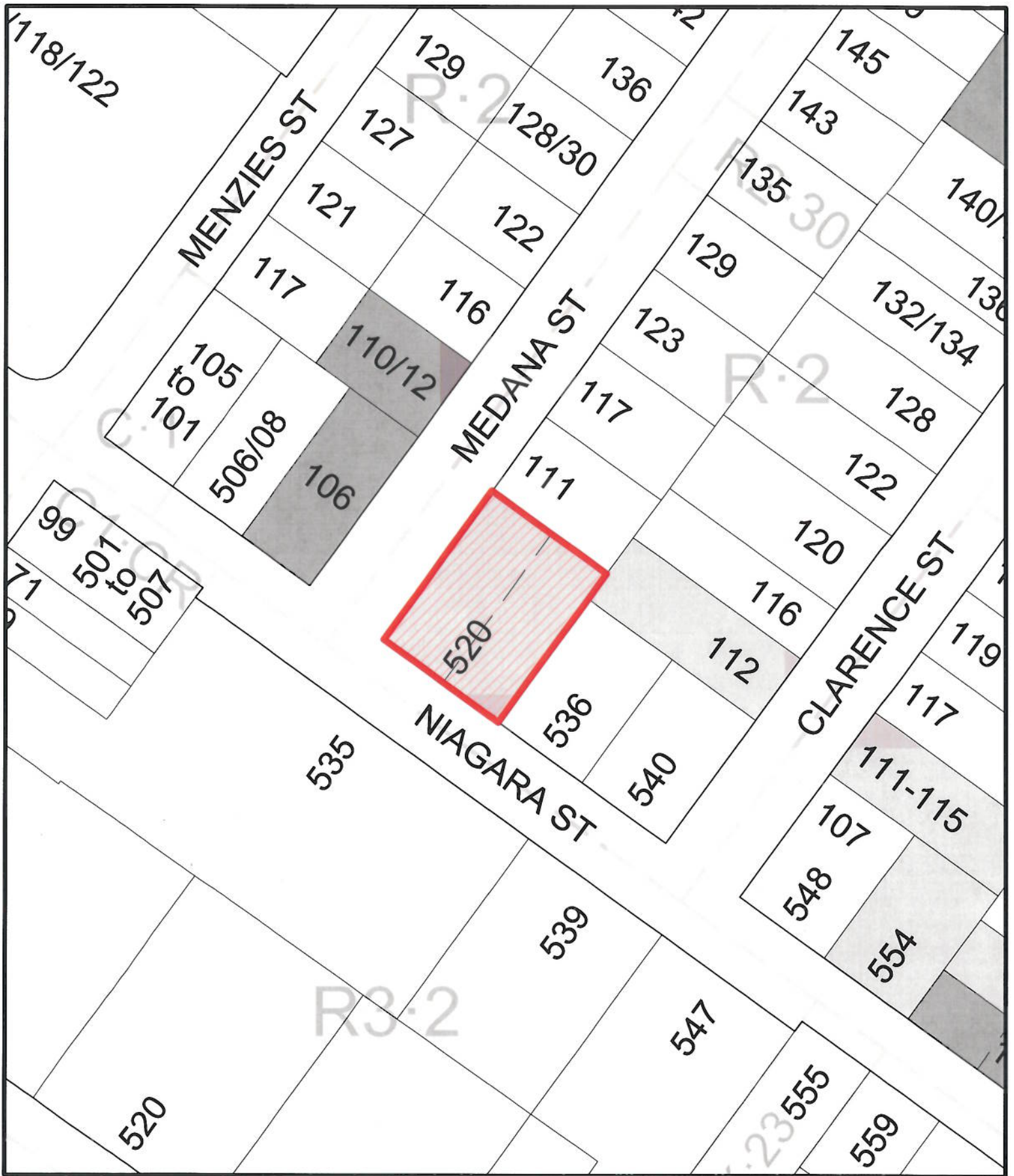
7.0 Alternate Recommendation

That Council, pursuant to the *Local Government Act*:

- a. Order, in accordance with Section 962 (1)(a), that the property located at 520 Niagara Street be subject to temporary protection for 60 days from the date immediately prior to that in which the applicant satisfies the requirements for obtaining a Building Permit; and
- b. Order, in accordance with Section 956 (1)(b), a heritage inspection of the property for the purpose of assessing the heritage value of the property.
- c. That staff report back to Council with an assessment of the heritage value of the property with options for next steps.

8.0 List of Attachments

- Map of subject property
- Aerial view
- Photos
- Heritage Property Protection Bylaw No. 95-62, as amended by Bylaw No. 13-015.



520 Niagara Street

Building Permitt #050924



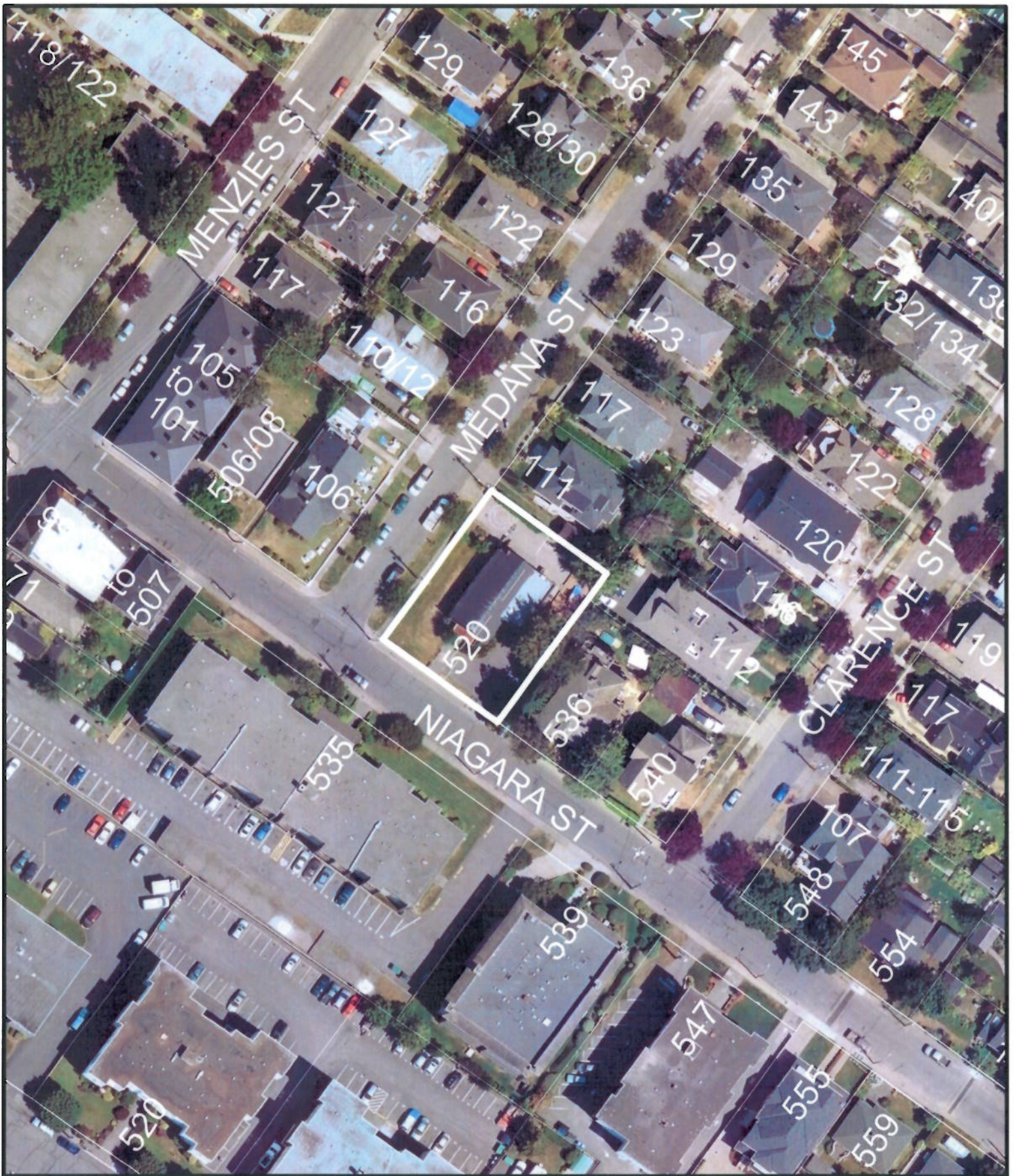
Designated



Registered



CITY OF
VICTORIA



520 Niagara Street
Building Permitt #050924





520 Niagara Street



520 Niagara Street



520 Niagara Street

HERITAGE PROPERTY PROTECTION BYLAW

A BYLAW OF THE CITY OF VICTORIA

to require the withholding of approvals for actions that would alter heritage property, including the withholding of the demolition of heritage property until heritage alteration permits, building permits and other related approvals have been obtained.

Under its statutory powers, including sections 1015 and 1016 of the Municipal Act, the Municipal Council of the City of Victoria enacts the following provisions:

1. This Bylaw may be cited as the "HERITAGE PROPERTY PROTECTION BYLAW."
2. In this Bylaw,
 - "approval" means a permit, licence or other authorization of the City;
 - "protected heritage property" means property that is
 - (a) protected under section 6(2) of the Heritage Conservation Act (B.C.);
 - (b) included as protected heritage property in a schedule to the City's Official Community Plan; or
 - (c) designated as protected under section 1022 of the Municipal Act (B.C.).
3. An approval must not be issued for any action which, in the opinion of the person responsible for issuing the approval, would alter or cause an alteration to any of the following:
 - (a) protected heritage property;
 - (b) property that is otherwise subject to temporary heritage protection under Part 30 of the Municipal Act (B.C.);
 - (c) property in the City's Community Heritage Register.

4. Without restricting section 3, a demolition permit must not be authorized for protected heritage property until after the issue of
 - (a) a heritage alteration permit in accordance with section 1027 of the Municipal Act (B.C.); and
 - (b) all approvals required by the City for the alteration or redevelopment of the site containing the protected heritage property.

5. Without restricting section 3, a demolition permit must not be authorized for real property that is identified as heritage property in the City's Community Heritage Register until after the issue of
 - (a) a building permit; and
 - (b) all approvals required by the City for the alteration or redevelopment of the site containing that real property.

6. A person who withholds an approval under sections 3 to 5 must refer that matter to the Council at its next regular meeting after the approval is withheld.

Passed and received third reading by the Municipal Council the 27th
day of July, 1995.

Adopted by the Municipal Council the 10th day of August 1995.

"Mark Johnston"

CITY CLERK

"Bob Cross"

MAYOR

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the Heritage Property Protection Bylaw No. 95-62 by updating legislative references and make it consistent with the *Local Government Act* and to limit its application to properties subject to protection under Part 27 of the *Local Government Act* or listed in the City's Community Heritage Register.

Under its statutory powers, including sections 960 and 961 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 "HERITAGE PROPERTY PROTECTION BYLAW, AMENDMENT BYLAW (NO. 1)".
2. The Heritage Property Protection Bylaw is amended:
 - (a) in the preamble, by deleting the words "1015 and 1016 of the Municipal Act" and replacing them with "960 and 961 of the *Local Government Act*";
 - (b) in the definition of "protected heritage property" in section 2,
 - (i) by deleting paragraph (a) and renumbering paragraphs (b) and (c) in that definition as "(a)" and "(b)" respectively, and
 - (ii) by deleting the words "1022 of the Municipal Act (B.C.)" and replacing them with "967 of the *Local Government Act*";
 - (c) in section 3(b), by deleting the words "30 of the Municipal Act (B.C.)" and replacing them with "27 of the *Local Government Act*";
 - (d) in section 4(a), by deleting the words "1027 of the Municipal Act (B.C.)" and replacing them with "972 of the *Local Government Act*"; and
 - (e) in section 6, by deleting the words "sections 3 to 5" and replacing them with "section 3".

READ A FIRST TIME the **28th** day of **February,** 2013.

READ A SECOND TIME the **28th** day of **February,** 2013.

READ A THIRD TIME the **28th** day of **February,** 2013.

ADOPTED on the **14th** day of **March,** 2013.

"ROBERT G. WOODLAND"
CORPORATE ADMINISTRATOR

"DEAN FORTIN"
MAYOR