



# NOTICE OF PUBLIC HEARING

2006-MAR-16 at 7:00 pm

Notice is hereby given that a Special Public Hearing will be held on Thursday, **2006-MAR-16**, commencing at **1900 hours (7:00 pm)** in the **Board Chambers of the Regional District of Nanaimo, 6300 Hammond Bay Road, Nanaimo, BC** to consider proposed amendments to the City of Nanaimo "ZONING BYLAW 1993 NO. 4000".

## 1. BYLAW NO. 4000.389:

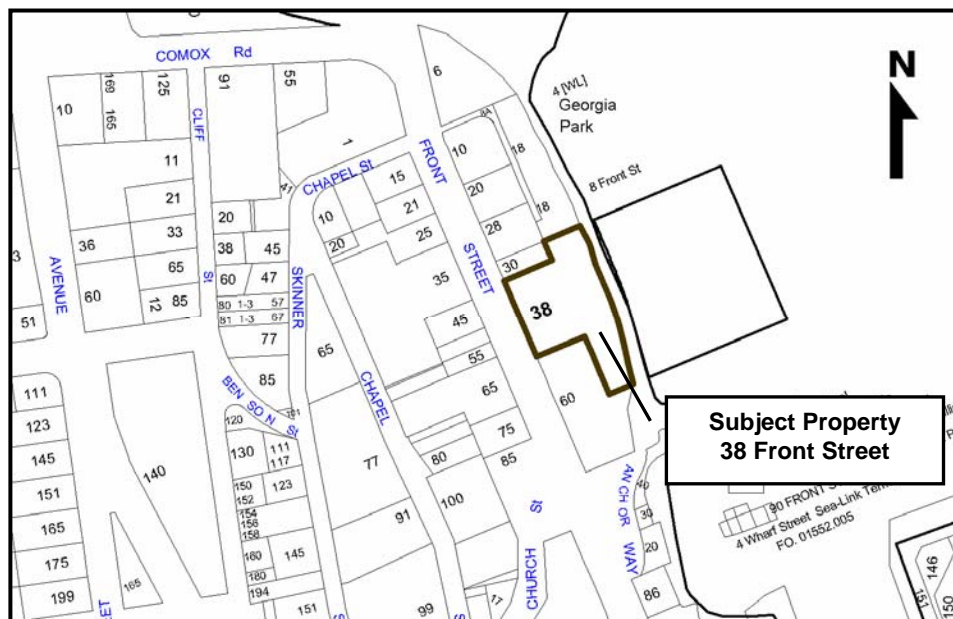
**Purpose:** To permit use of land for a multiple family development.

**Location(s):** 38 Front Street

**File No.:** RA160

This bylaw, if adopted, will add site specific text amendments for property located at 38 Front Street in order to permit a multiple family dwelling development. The applicant is proposing to increase the height of the previously approved development from 16 storeys (49.0 metres) to 18 storeys (63.4 metres), as measured from Front Street, and to increase the maximum floor area ratio from 5.30 to 6.30.

The subject property is legally described as LOT A, SECTION 1, NANAIMO DISTRICT, PLAN VIP63943, and is shown on Map 'A'.



**Map A**

*PLEASE NOTE* full details are available in the City of Nanaimo "ZONING BYLAW AMENDMENT BYLAW 2006 NO. 4000.389", copies of which are available at Development Services located at 238 Franklyn Street.

The above bylaw, relevant staff report, and other background information may be inspected from 2006-MAR-03 to 2006-MAR-16, between 8:00 am and 4:30 pm, Monday through Friday, excluding statutory holidays, in the offices of the Development Services Department, 238 Franklyn Street, Nanaimo, BC.

All persons who believe their interest in property is affected by the proposed bylaw shall be afforded the opportunity to be heard in person, by a representative or by written submission, on the matters contained within Bylaw No. 4000.389 at the Public Hearing.

### **Please note the following:**

Written submissions may be sent to the City of Nanaimo, Development Services Department, 455 Wallace Street, Nanaimo, BC V9R 5J6.

Electronic submissions (email) should be sent to **public.hearing@nanaimo.ca**, or submitted online at **www.nanaimo.ca**. These submissions must be received no later than 4:00 pm, 2006-MAR-16, to ensure their availability to Council at the public hearing.

Following the close of a public hearing, no further submissions or comments from the public or interested persons can be accepted by members of City Council, as established by provincial case law. This is necessary to ensure a fair public hearing process and provide a reasonable opportunity for people to respond.

**For more information, please contact the City of Nanaimo Development Services Department**  
**Phone: (250) 755-4429 ♦ Fax: (250) 755-4439 ♦ Website [www.nanaimo.ca](http://www.nanaimo.ca)**  
**238 Franklyn Street, Nanaimo, BC V9R 5J6**

CITY OF NANAIMO

BYLAW NO. 4000.389

A BYLAW TO AMEND THE CITY OF NANAIMO "ZONING BYLAW 1993 NO. 4000"

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WHEREAS the Council may zone land, by bylaw, pursuant to Sections 890, 891, 903 and 904 of the *Local Government Act*;

THEREFORE BE IT RESOLVED the Municipal Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited as the "ZONING BYLAW AMENDMENT BYLAW 2006 NO. 4000.389".
2. The City of Nanaimo "ZONING BYLAW 1993 NO. 4000" is hereby amended as follows:
  - (1) By deleting Subsection 9.28.3.4 and replacing it with the following:

Notwithstanding Subsection 9.28.3.1, in the case of Lot A, Section 1, Nanaimo District, Plan VIP63943 (38 Front Street), a maximum permitted *floor area ratio* shall not exceed 6.30.
  - (2) By deleting Subsection 9.28.6.5 and replacing it with the following:

Notwithstanding Subsections 9.28.6.1 and 9.28.6.2, the maximum *height* in the case of Lot A, Section 1, Nanaimo District, Plan VIP63943 (38 Front Street) shall not exceed 63.4 metres (208 feet).

PASSED FIRST AND SECOND READINGS 2006-FEB-27.

PUBLIC HEARING HELD \_\_\_\_\_.

PASSED THIRD READING \_\_\_\_\_.

APPROVED BY MINISTRY OF TRANSPORTATION \_\_\_\_\_.

ADOPTED \_\_\_\_\_.

File: RA000160

Address: 38 Front Street

Applicant: Bill Wright

() RA160 – 38 Front Street

The City has received a rezoning application from Bill Wright on behalf of Nanaimo Harbourfront Development Corporation to increase the maximum height and density for the building under construction at 38 Front Street.

The redevelopment of the site is now underway in accordance with the design provided for previous rezoning and development permit approvals granted by Council.

Council, at its meeting of 2004-NOV-15, rezoned the subject property to permit a 49 metre, (160.76 feet) 13-storey building (measured from Front Street) with a Floor Area Ratio (FAR) of 5.3. (Floor Area Ratio is the gross floor area on a lot divided by the area of the lot). At the meeting, Council also authorized a development permit which included a variance to the building height in order to permit a 56.5 metre (185.4 feet), 15-storey building (measured from Front Street).

Further to these approvals, Council at its meeting of 2005-JUL-11, authorized an amendment to the development permit in order to decrease individual floor heights to allow one additional floor to be added within the previously approved 56.5 metre (185.4 feet) height limit.

As the project now stands; approvals are in place for a 56.5 metre, 16-storey building (measured from Front Street) with a FAR of 5.3. The proposed building as approved includes 161 units and 188 parking stalls.

*Proposed Amendments*

The applicant's current rezoning application requests that the maximum height and FAR be increased as follows:

- Building height increased 6.9 metres (22.6 feet) for a total of 18 storeys (measured from Front Street); and
- Floor Area Ratio increase by 1.0 (from 5.3 to 6.3).

The proposed amendments and associated revisions to the internal configuration would allow for a 169-unit building with 189 parking stalls. (The requested FAR increase actually involves four separate parts of the building and the breakdown is shown on page 2 of the main report.)

*Staff Comment*

The Downtown Zoning was adopted by Council in February of 2005, following the approvals for the original rezoning on the subject property. The downtown zoning process clarified that high-rise development would be encouraged in this precinct, but that the form should be of a podium style with point towers. The C-28 (Chapel Front Zone) and associated policies of the Downtown Plan encourage a maximum 5-storey podium with all floors above that height limited in area to 594 m<sup>2</sup> (6,400 ft<sup>2</sup>) with a maximum depth and width of 24.4 metres (80 feet). As such, development of this site today would be required to comply with these new regulations.

As the proposed development was approved prior to adoption of the Downtown Zone, the previously approved development permit does not, and cannot, meet these requirements.

While the development approved to date supersedes the requirements created through the Downtown Zoning process, Staff believe that additional height should not be applied to a building which does not already meet the recently adopted guidelines for high-rise development.

The site continues to benefit from the height and density approved prior to the Downtown Zoning and Staff recommend that development of the site be completed in compliance with those approvals.

*Community Contribution*

As outlined in Section 6.2 of the Official Community Plan (OCP), in exchange for value inferred through rezoning, the applicant should provide a community contribution. As the Zoning Amendment Bylaw, if adopted, would add an additional 3,481 m<sup>2</sup> (37,474 ft<sup>2</sup>) of gross floor area to the building and two additional storeys, the value inferred through rezoning is significant. In response to this policy, the applicants have offered a community contribution of \$100,000 towards the housing legacy fund. If Council elects to approve the rezoning application, Staff would secure the community contribution as offered by the applicant.

The Rezoning Advisory Committee reviewed this application at its regular meeting of 2006-FEB-16 and recommended that the application be approved as presented with a majority vote of 2-1.

While the majority of the Committee concurred with the applicant's rationale and recommended that the application be approved, the minority did not support the application citing concerns for building massing and the impact of the building form on views and the pedestrian experience on Front Street.

Staff recommend that Council reject this application.

If Council wishes to consider this application, the appropriate motion would be to give First and Second Readings to Zoning Amendment Bylaw No. 4000.389 and forward the application to Public Hearing. If Council approves the required Zoning Amendment Bylaw, a subsequent amendment to the Development Permit will be required.

The applicants have made a formal request for a special Public Hearing in advance of the next regularly scheduled Hearing in order to expedite this application. If Council is supportive of this application proceeding to Public Hearing Council's direction with respect to this request is required.

Recommendation: That Council either:

1. Reject this application (this is Staff's recommendation) or;
2.
  - a) Support Rezoning Application No. RA000160 (38 Front Street) proceeding to Public Hearing and direct Staff to secure the community contribution as a condition of rezoning; and
  - b) Direct Staff to facilitate a Special Public Hearing on 2006-MAR-16.

2006-FEB-27

## FOR CITY MANAGER'S REPORT

REPORT TO: E.C. SWABEY, DIRECTOR, PLANNING & DEVELOPMENT, DSD

FROM: D. LINDSAY, MANAGER, PLANNING DIVISION, DSD

RE: RA160 – 38 FRONT STREET

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### RECOMMENDATION:

That Council either:

1. Reject this application (this is Staff's recommendation) or;
2. a) Support Rezoning Application No. RA000160 (38 Front Street) proceeding to Public Hearing and direct Staff to secure the community contribution as a condition of rezoning; and  
a) Direct Staff to facilitate a Special Public Hearing on 2006-MAR-16.

### BACKGROUND:

The City has received a rezoning application from Bill Wright on behalf of Nanaimo Harbourfront Development Corporation to increase the maximum height and density for the building under construction at 38 Front Street.

### DISCUSSION:

As Council is aware, the redevelopment of the former Malaspina Hotel at 38 Front Street is now underway. In order for development to proceed, previous rezoning and development permit approvals were granted by Council.

Council, at their regular meeting of 2004-NOV-15, rezoned the subject property to permit a 49-metre, (160.76 feet) 13-storey building (measured from Front Street) with a Floor Area Ratio (FAR) of 5.3. (Floor Area Ratio is the gross floor area on a lot divided by the area of the lot). At the meeting Council also authorized a development permit which included a variance to the building height in order to permit a 56.5-metre (185.4 feet), 15-storey building (measured from Front Street).

Further to these approvals Council, at their meeting of 2005-JUL-11, authorized an amendment to the development permit in order to decrease the individual floor heights resulting in one additional floor added within the previously approved 56.5-metre (185.4 feet) height limit.

As such, the project now stands with approvals for 56.5-metre, 16-storey building (measured from Front Street) with a FAR of 5.3. The proposed building as approved includes 161 units and 188 parking stalls. The building permit was issued for a development in compliance with these approvals.

### ***Proposed Amendments***

The applicant's current rezoning application requests that the maximum height and FAR be increased as follows:

- Building height increased 6.9 metres (22.6 feet) for a total of 18 storeys (measured from Front Street); and
- Floor Area Ratio increase by 1.0 (from 5.3 to 6.3).

The proposed amendments and associated revisions to the internal configuration would allow for a 169-unit building with 189 parking stalls.

### ***Height***

As noted above, the site currently has approvals for 56.5-metre (185.4 feet), 16-storey building (measured from Front Street). The applicant is proposing a rezoning to increase the building height to 63.4 metres (208 feet) for an 18-storey building (measured from Front Street). The proposed and previously approved elevations are shown on Schedule B and B1. A comparative shadow analysis of the approved versus proposed building is shown on Schedules C through E.

### ***Floor Area Ratio***

The applicant is requesting FAR be increased by 1.0. The breakdown of the requested floor area increase is as follows:

0.31 FAR (1,102 m <sup>2</sup> / 11,860 ft <sup>2</sup> )	The two proposed floors have a floor area of approximately 5,930 ft <sup>2</sup> .
0.57 FAR (2,020 m <sup>2</sup> / 21,750 ft <sup>2</sup> )	For a conversion of parking area to storage areas. As storage area is included in gross floor area calculation, an increase in FAR is required.
0.07 FAR (195 m <sup>2</sup> / 2,100 ft <sup>2</sup> )	Over height crawlspace now required due to limitations found during construction.
0.05 FAR (164 m <sup>2</sup> / 1,764 ft <sup>2</sup> )	Enclosed proposed decks within existing portion of building.
<b>Total: 1.0 FAR</b> <b>(3,481 m<sup>2</sup> / 37,474 ft<sup>2</sup>)</b>	<b>Total required for all proposed amendments / additions.</b>

### ***Applicants Rationale***

The applicant's rationale for the proposed amendments was included in their letter of submission (attached as Schedule F).

***Staff Comment***

The Downtown Zoning was adopted by Council in February of 2005, following the approvals for the original rezoning on the subject property. The downtown zoning process clarified that high-rise development would be encouraged in this precinct but that the form should be of a podium style with point towers.

The C-28 (Chapel Front Zone) and associated policies of the Downtown Plan encourage a maximum 5-storey podium with all floors above that height limited in area to 594 m<sup>2</sup> (6,400 ft<sup>2</sup>) with a maximum depth and width of 24.4 metres (80 feet). As such, development of this site today would be required to comply with these new regulations.

As the proposed development was approved prior to adoption of the Downtown Zone, the previously approved development permit does not, and cannot, meet these requirements.

While the development approved to date supersedes the requirements created through the Downtown Zoning process, Staff believe that additional height should not be applied to a building which does not already meet the recently adopted guidelines for high-rise development. The site continues to benefit from the height and density approved prior to the Downtown Zoning and Staff recommend that development of the site be completed in compliance with those approvals.

***Community Contribution***

As outlined in Section 6.2 of the Official Community Plan (OCP), in exchange for value inferred through rezoning the applicant should provide a community contribution. As the Zoning Amendment Bylaw, if adopted, would add an additional 3,481 m<sup>2</sup> (37,474 ft<sup>2</sup>) of gross floor area to the building and two additional storeys the value inferred through rezoning is significant. In response to this policy the applicants have offered a community contribution of \$100,000 towards the housing legacy fund (see Schedule G). If Council elects to approve the rezoning application, Staff would secure the community contribution as offered by the applicant.

**REZONING ADVISORY COMMITTEE (RAC)**

The RAC reviewed this application at its regular meeting of 2006-FEB-16 and recommended that the application be approved as presented with a majority vote of 2-1.

While the majority of the Committee concurred with the applicant's rationale and recommended that the application be approved, the minority did not support the application citing concerns for building massing and the impact of the building form on views and the pedestrian experience on Front Street.

**OPTIONS:**

Staff recommend that Council reject this application.

If Council wishes to consider this application the appropriate motion would be to give First and Second Readings to Zoning Amendment Bylaw No. 4000.389 and forward the application to Public Hearing. If Council approves the required Zoning Amendment Bylaw, a subsequent amendment to the Development Permit will be required.

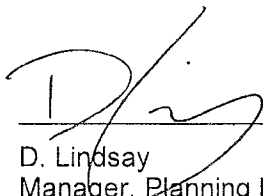
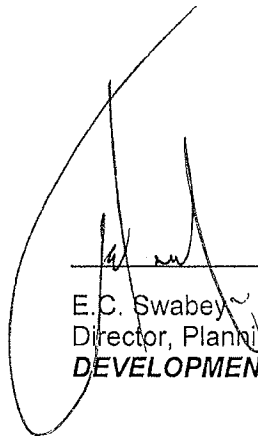
The applicants have made a formal request for a special Public Hearing in advance of the next regularly scheduled Hearing in order to expedite this application. If Council is supportive of this application proceeding to Public Hearing, Council's direction with respect to this request is required.

RECOMMENDATION:

That Council either:

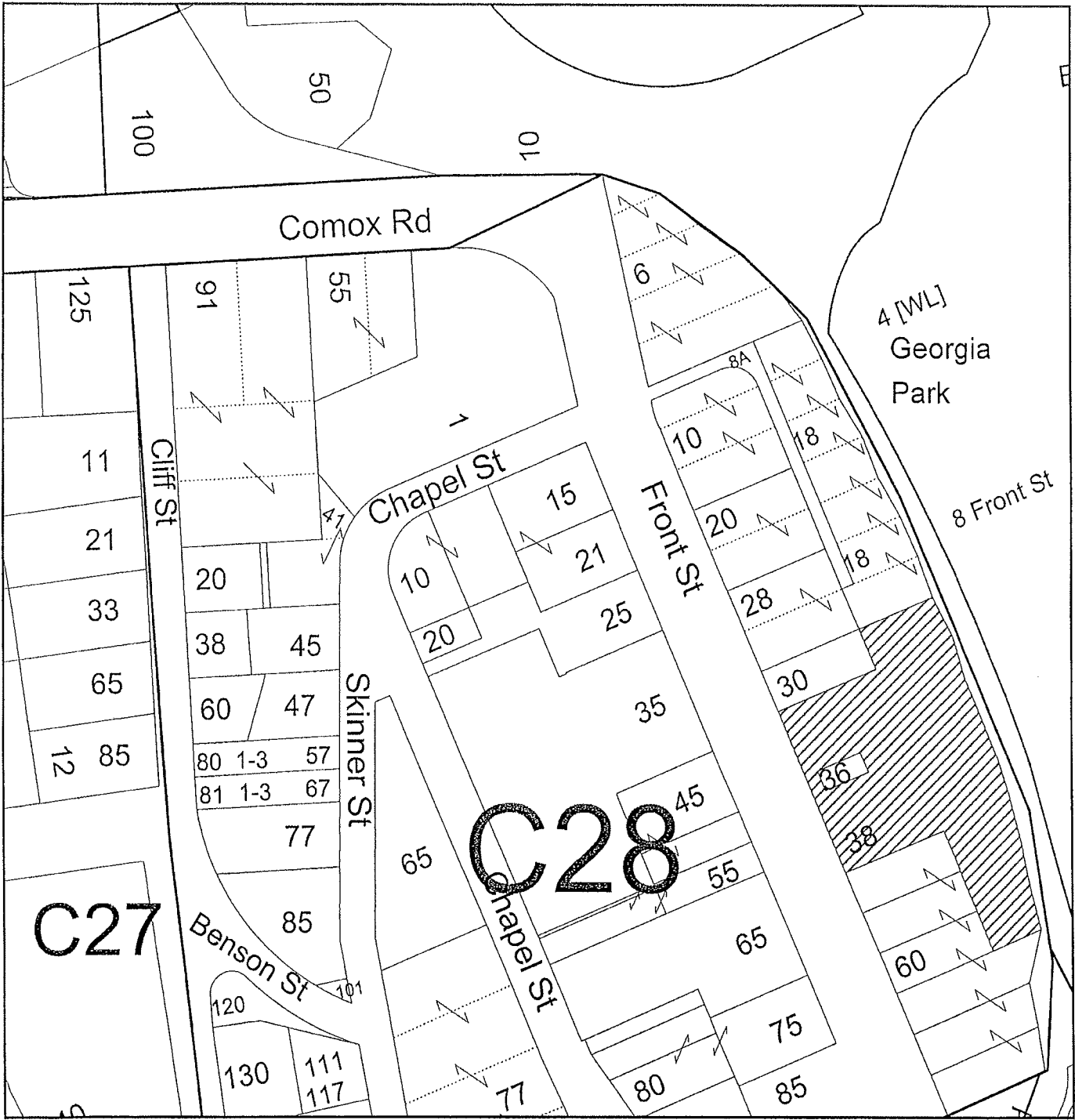
1. Reject this application (this is Staff's recommendation) or;
2. a) Support Rezoning Application No. RA000160 (38 Front Street) proceeding to Public Hearing and direct Staff to secure the community contribution as a condition of rezoning; and  
b) Direct Staff to facilitate a Special Public Hearing on 2006-MAR-16.

Respectfully submitted,

  
\_\_\_\_\_  
D. Lindsay  
Manager, Planning Division  
**DEVELOPMENT SERVICES DEPARTMENT**  
\_\_\_\_\_  
E.C. Swabey  
Director, Planning & Development  
**DEVELOPMENT SERVICES DEPARTMENT**

JH/jh/pm/ld  
Council: 2006-FEB-27  
Prospero Attachment: RA160

SCHEDULE A

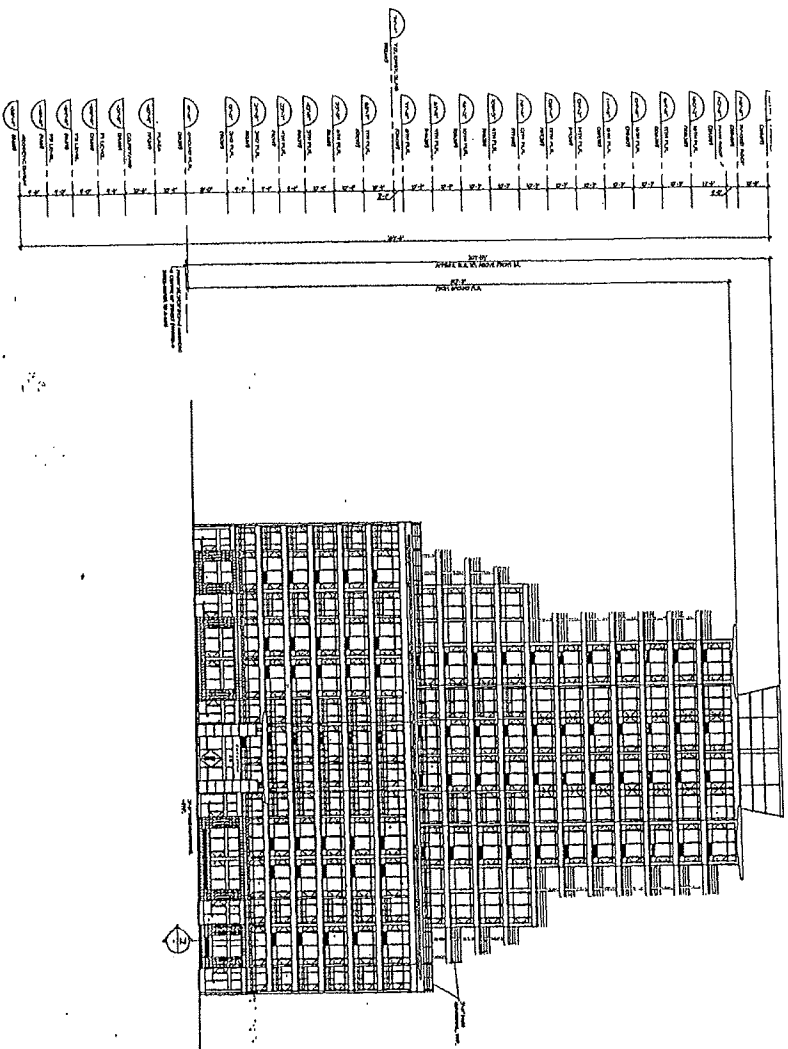


Civic : 38 Front Street  
File : RA000160



**SUBJECT  
PROPERTY**

## WEST ELEVATION



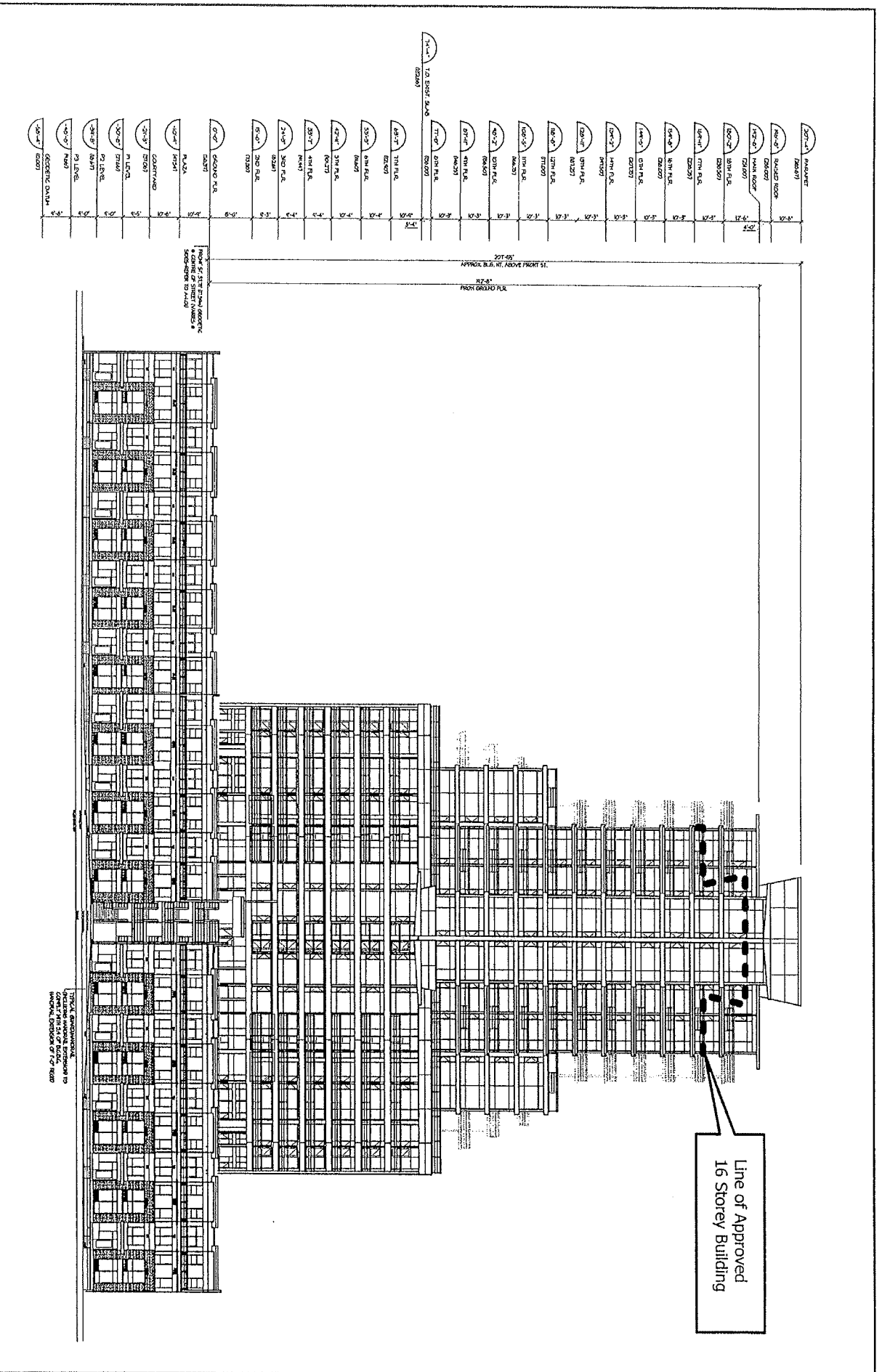
16 STOREY

56.5 METERS (185.5 FEET)

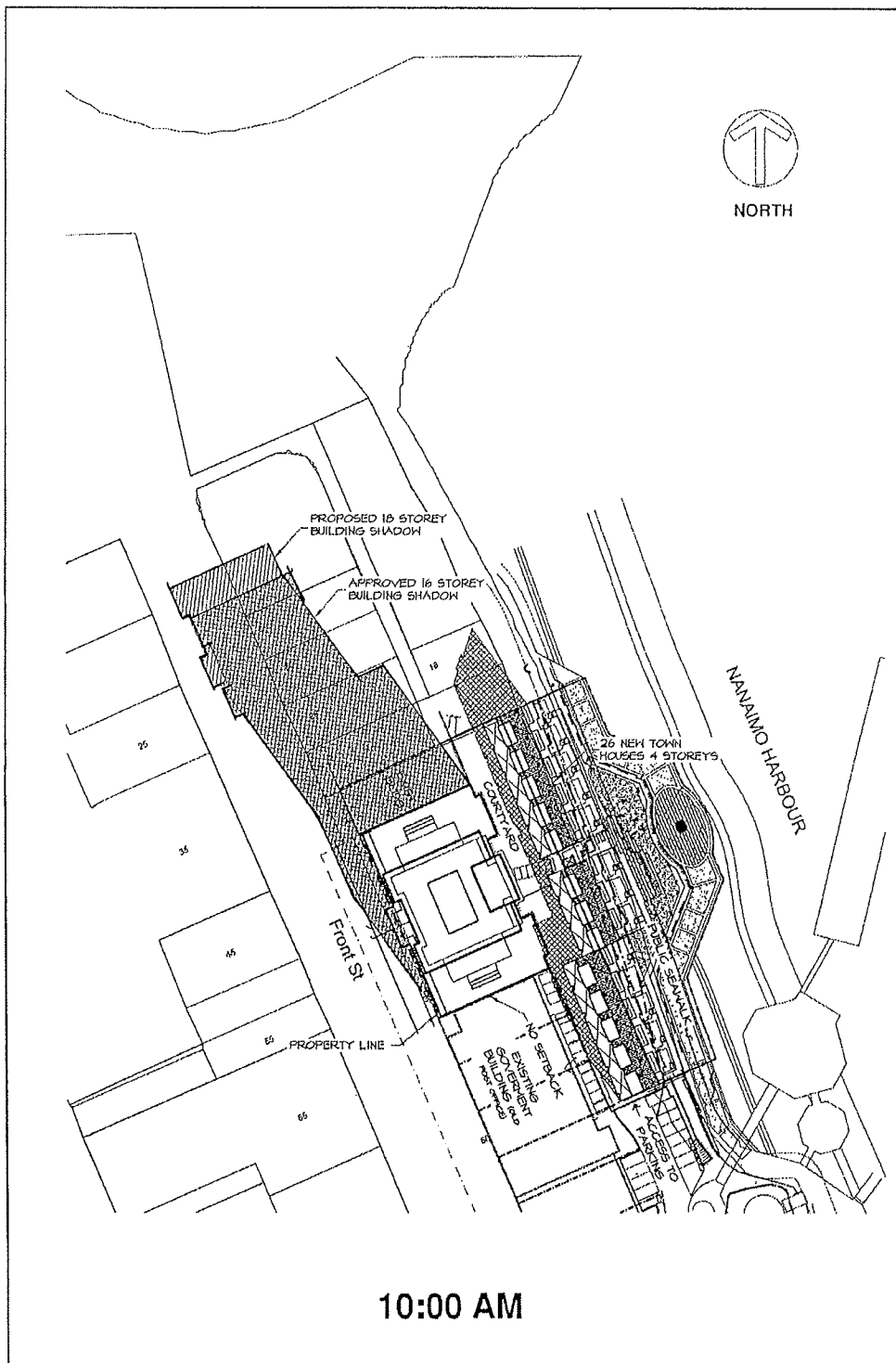
18 STOREY

63.4 METERS (208 FEET)

# SCHEDULE B1 - East Elevation



# SCHEDULE C

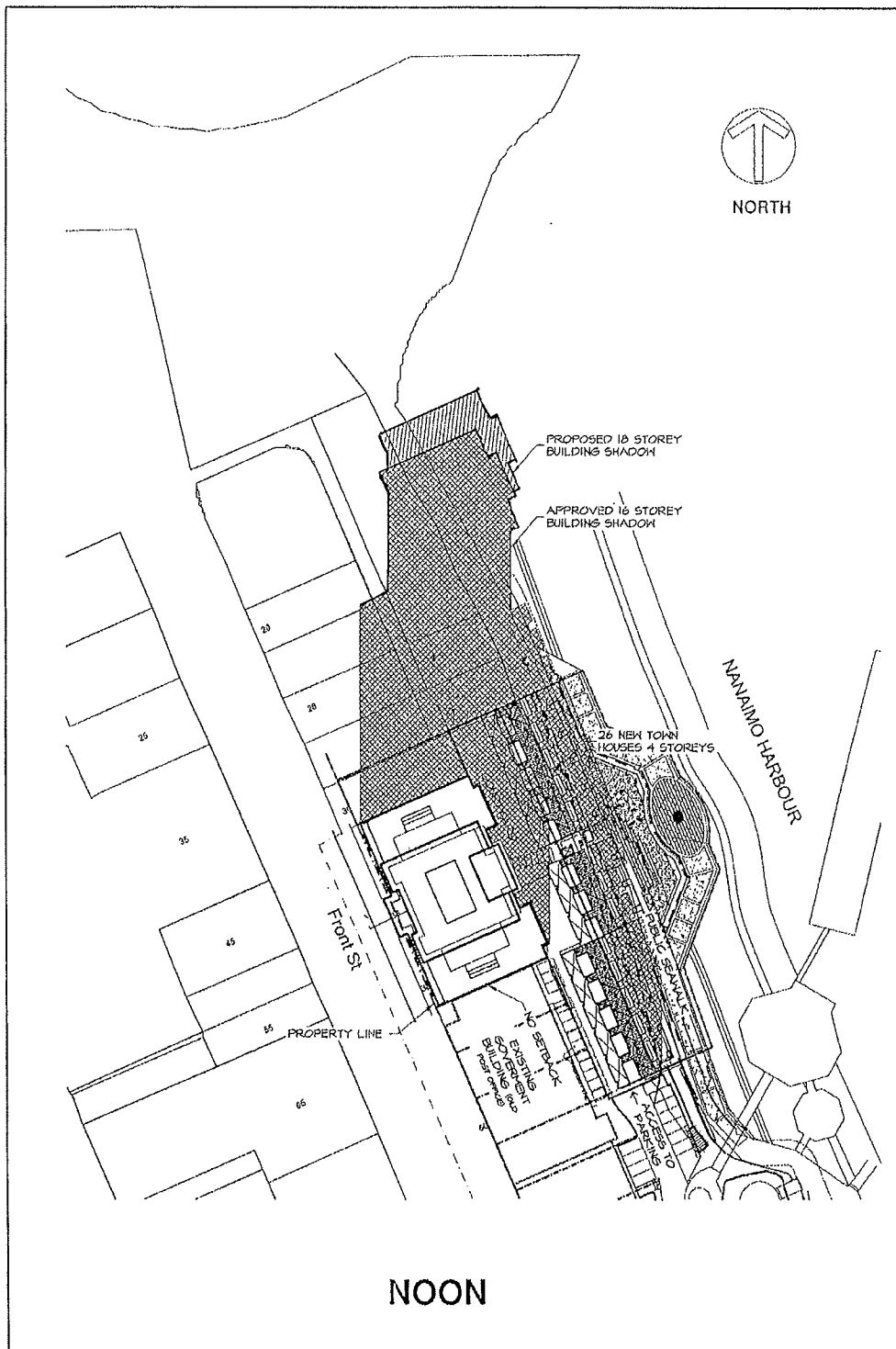


## SHADOW ANALYSIS

16 Storey Approved & 18 Storey Proposed

March 21 & September 25

# SCHEDULE D

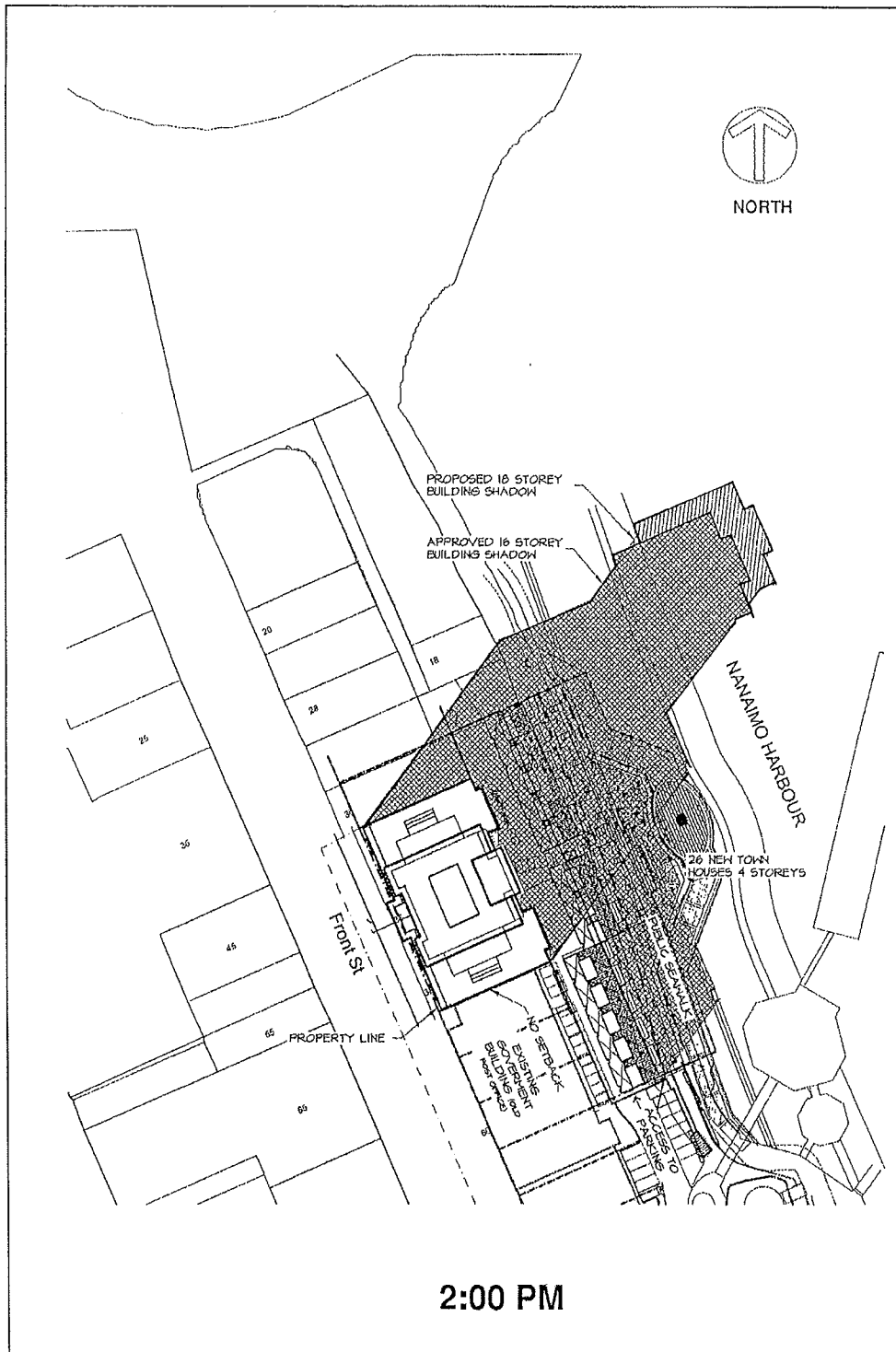


## SHADOW ANALYSIS

16 Storey Approved & 18 Storey Proposed

March 21 & September 25

# SCHEDULE E



## SHADOW ANALYSIS

16 Storey Approved & 18 Storey Proposed

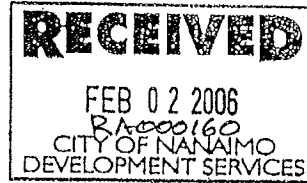
March 21 & September 25

## SCHEDULE F

002

140 - 1034 WEST 11TH AVENUE  
VANCOUVER, CANADA V6J 1C9INFO@GBL-ARCH.COM  
WWW.GBL-ARCH.COMTELEPHONE 604 736 1156  
FACSIMILE 604 731 5279

February 2, 2006

City of Nanaimo  
455 Wallace Street  
Nanaimo, BC  
V9R 5J6

GOMBEROFF

BELL  
LYONAttention: Director of Planning

Following is a brief description of the proposed revisions that our client has asked us to put forward for your consideration.

The proposed revisions can be separated into two parts. The first is an increase in density that allows for F.A.R. (Floor Area Ratio) area within the currently approved development; the second is the addition of two floors, of 4 units per floor, which would increase the F.A.R. and height of the building.

**DENSITY INCREASE**

The increase in density within the building has 3 main components that create F.A.R. All of these increases in density occur within the existing building structure and approved development and do not add any additional mass to the building. The majority of these increases occur underground and, based on the zoning definitions, have to be included in the F.A.R. total.

The first component is the creation of storage rooms within the existing parking structure and within the new areas created in the two floors below Front Street. These areas would be assigned as storage spaces/lockers for the residential units within the building. The total area for these storage spaces is approximately 21,750 sq.ft. (F.A.R. 0.57).

The second component in density is created by the need to raise the townhouse portion of the building to avoid undermining the existing footings of the parkade (uncovered during excavation) to minimize construction and geotechnical difficulties. This results in the crawl space within the upper level of townhouses exceeding the maximum height allowed for exclusion from F.A.R. This adds approximately 2,800 sq ft (F.A.R. 0.07).

The third component in density is created by the enclosure of deck space for the A units located within the existing concrete structure of the building. This revision creates a small den area adjacent to each master bedroom and reduces the distance of the bedroom windows from the outer edge of the existing floor slab and improves the capture of natural light for the bedroom (this also eliminates a dark area of exterior deck). This adds approximately 1764 sq.ft. (F.A.R. 0.05).

**HEIGHT & UNIT INCREASE**

The second main revision is the addition of 8 units, on 2 floors, at the top of the building. These two new floors of 10'-3" each, along with a 2'-0" headroom increase for the penthouse elevator, will increase the total height of the building by 22'-6" for a height increase above Front Street from 185'-6" to 208'-0". These two floors increase the building density by approximately 11,860 sq.ft. (F.A.R. 0.31).

From an architectural viewpoint, we feel the two additional floors, at the top of the building, will improve the overall proportions of the tower by increasing the slenderness of the tower massing.



## SUMMARY OF PROPOSED REVISIONS

	Current	Proposed
Height (above Front Street)	185' - 6"	208' - 0"
F.A.R. Total	5.30	6.30
Proposed F.A.R. Additions		
Underground Storage		0.57
Townhouse Crawl Space		0.07
Unit A Bedroom		0.05
2 Floors at Tower		0.31
Number of Floors (above Front St.)	16	18
Number of Units	161	169

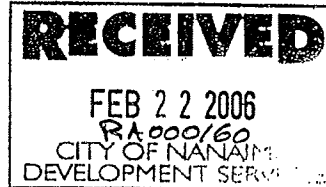
Sincerely,  
GOMBEROFF BELL LYON  
Architects Group Inc.

Eric Schroeder

# SCHEDULE G

## DEVELOPMENT CORPORATION

February 20, 2006



CITY OF NANAIMO  
455 Wallace Street  
Nanaimo, BC V9R 5J6

Attention: Mr. Ted Swabey  
Senior Manager Planning and Development Services

Dear Ted: by fax: 250.755.4439

Re: Your File RA160 – 38 Front Street, Nanaimo, BC

Thank you for the opportunity to present the revisions to our Pacifica Project this past Thursday to the rezoning advisory committee. We understand from your letter dated February 9 of this year, that the application is in process through City Departments. We also understand under Section 6.2 of the Official Community Plan that a Community Contribution is in order.

We propose to make a further contribution of \$100,000 to the Housing Legacy Fund to meet our obligations under the Community Contribution Policy.

Yours truly,

A handwritten signature in dark ink, appearing to read "Bill Wright".

Bill Wright

BW/po

5960 No. 6 Road, Suite 633,  
Richmond, B.C., Canada V6V 1Z1  
(604) 278-5238 • Fax: (604) 278-4628