

**Revitalization Tax Exemption Agreement**

THIS AGREEMENT dated for reference the 6 day of June, 2023 is

BETWEEN:

AKAL DEVELOPMENT LTD.  
1326 Ivy Lane  
Nanaimo, BC V9T 5T2  
(the "Owner")

AND:

CITY OF NANAIMO  
455 Wallace Street  
Nanaimo, BC V9R 5J6  
(the "City")

GIVEN THAT:

- A. The Owner is the registered owner in fee simple of lands in the City of Nanaimo at 507 Milton Street legally described as *Lot 1, Section 1, Nanaimo District, Plan EPP73881, PID 030-234-093* (the "Parcel");
- B. Council has established a revitalization tax exemption program and has included within the City of Nanaimo "REVITALIZATION TAX EXEMPTION BYLAW 2018 NO. 7261";
- C. The Parcel is situated within the Revitalization Area, as defined in the Bylaw; and
- D. The Owner proposes to construct new improvements on the Parcel as described in Appendix "A" attached to and forming part of this agreement (the "Project") and has applied to the City to take part in the revitalization tax exemption program in respect of the Project and the City has agreed to accept the Project under the program;

THIS AGREEMENT is evidence that in consideration of the promises exchanged below, the Owner and the City covenant and agree each with the other as follows:

- 1. In this Agreement, the following words have the following meanings:
  - (a) "Assessed Value" means the BC Assessment Authority land and improvements assessed value of the parcel subject to this Agreement for the purposes of calculating property taxes;
  - (b) "Baseline Assessment" means the BC Assessment Authority's last published land and improvements assessed value immediately before the commencement of the Project;
  - (c) "Bylaw" means City of Nanaimo "REVITALIZATION TAX EXEMPTION BYLAW 2018 NO. 7261" as amended from time to time including any amendments thereto;
  - (d) "Renovation" means capital improvements of an existing building;

- (e) "Tax Exemption" means a revitalization tax exemption determined in accordance with the Bylaw; and
  - (f) "Tax Exemption Certificate" means a revitalization tax exemption certificate issued by the City of Nanaimo pursuant to the Bylaw and the *Community Charter*.
- 2. The Project – the Owner will use the best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that will be consistent with and will foster the objectives of the revitalization tax exemption program, as outlined in the Bylaw. Without limiting the generality of the foregoing, the Owner covenant to use the best efforts to ensure that the Project will:
  - (a) be built in accordance with the submitted plans as approved by Development Permit (DP000993) for 507 Milton Street authorized by City Council of the City of Nanaimo on January 16, 2017.
- 3. Operation and Maintenance of the Project – throughout the term of this Agreement, the Owner shall operate, repair and maintain the Project and will keep the Project in a state of good repair as a prudent owner would do.
- 4. Revitalization Tax Exemption – subject to fulfillment of the conditions set out in this Agreement and the Bylaw, the City shall issue a Tax Exemption Certificate to the British Columbia Assessment Authority entitling the Owner to a Tax Exemption in respect of the property taxes due (not including local service taxes) in relation to the Parcel and the improvements thereon for the calendar year(s) set out in this Agreement. The Tax Exemption Certificate shall be substantially in the form of Appendix "B", which is attached to and forms part of this Agreement.
- 5. Conditions – the Owner must fulfill the following conditions before the City will issue a Tax Exemption Certificate to the Owner in respect of the Project:
  - (a) the Owner must obtain a building permit from the City for the Project on or before July 1, 2020;
  - (b) the Owner must complete or cause to be completed construction of the Project in a good and workmanlike fashion and in strict compliance with the building permit and the plans and specifications attached hereto as Appendix "C";
  - (c) the Project must be officially opened and available for use as a *twenty-five unit residential and 2-unit commercial building* (the "Exempt Use") and for no other use, by no later than December 30, 2023; and
- 6. Calculation of Revitalization Tax Exemption – the amount of the Tax Exemption in each year shall be calculated in accordance with the Bylaw.
- 7. Term of Tax Exemption – provided the requirements of this Agreement, and of the City of Nanaimo Revitalization Tax Exemption Bylaw 2018 No. 7261, are met the Tax Exemption shall be for the taxation years 2024 to 2033, inclusive. [10 year maximum]
- 8. Compliance with Laws – the Owner shall construct the Project and, at all times during the term of the Tax Exemption or any renewal term, use and occupy the Parcel forming part of

the Project in compliance with all statutes, laws, regulations, bylaws and orders of any authority having jurisdiction and, without limiting the generality of the foregoing, all federal, provincial, or municipal laws or statutes or bylaws, including all the rules regulations policies guidelines criteria or the like made under or pursuant to any such laws.

9. Representations and Warranties – The Owner represents and warrants to the City that the Owner is the owner of the Parcel for the purpose of property assessment and taxation.
10. Cancellation – the City may in its sole discretion cancel the Tax Exemption Certificate at any time:
  - (a) on the written request of the Owner; or
  - (b) effective immediately upon delivery of a notice of cancellation to the Owner if at any time any of the conditions in the Tax Exemption Certificate are not met.
11. If such cancellation occurs, the Owner of the Parcel for which the Tax Exemption Certificate was issued will pay to the City a recapture amount in accordance with the Bylaw, which amount will bear interest in accordance with the Bylaw.
12. No Refund – for greater certainty, under no circumstances will the Owner be entitled under the City's revitalization tax exemption program to any cash credit, any carry forward tax exemption credit or any refund for any property taxes paid.
13. Notices – any notice or other writing required or permitted to be given hereunder or for the purposes hereof to any party shall be sufficiently given if delivered by hand or posted on the Parcel, or if sent by prepaid registered mail (Express Post) or if transmitted by facsimile to such party:
  - (a) in the case of a notice to the City, at:

THE CITY OF NANAIMO  
455 Wallace Street,  
Nanaimo, B.C.  
V9R 5J6  
Attention:
  - (b) in the case of a notice to the Owner, at:

AKAL DEVELOPMENT LTD  
1326 IVY LANE  
NANAIMO BC V9T 5T2or at such other address as the party to whom such notice or other writing is to be given shall have last notified the party giving the same.
14. No Assignment – the Owner shall not assign the interest in this Agreement except to a subsequent owner in fee simple of the Parcel.
15. Severance – if any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.

16. Interpretation – wherever the singular or masculine is used in this agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties thereto so require.
17. Further Assurances – the parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this Agreement.
18. Waiver – waiver by the City of a default by the Owner shall be in writing and shall not be deemed to be a waiver of any subsequent or other default.
19. Powers Preserved – this Agreement does not:
  - (a) affect or limit the discretion, rights or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Parcel;
  - (b) affect or limit any enactment relating to the use or subdivision of the Parcel; or
  - (c) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Parcel, and without limitation shall not confer directly or indirectly any exemption or right of set-off from development cost charges, connection charges, application fees, user fees or other rates, levies or charges payable under any bylaw of the City.
20. Reference – every reference to each party is deemed to include the heirs, executors, administrators, personal representatives, successors, assigns, servants, employees, agents, contractors, officers, licensees and invitees of such party, wherever the context so requires or allows.
21. Enurement – this agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

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

CITY OF NANAIMO by its authorized signatories:

\_\_\_\_\_  
Mayor

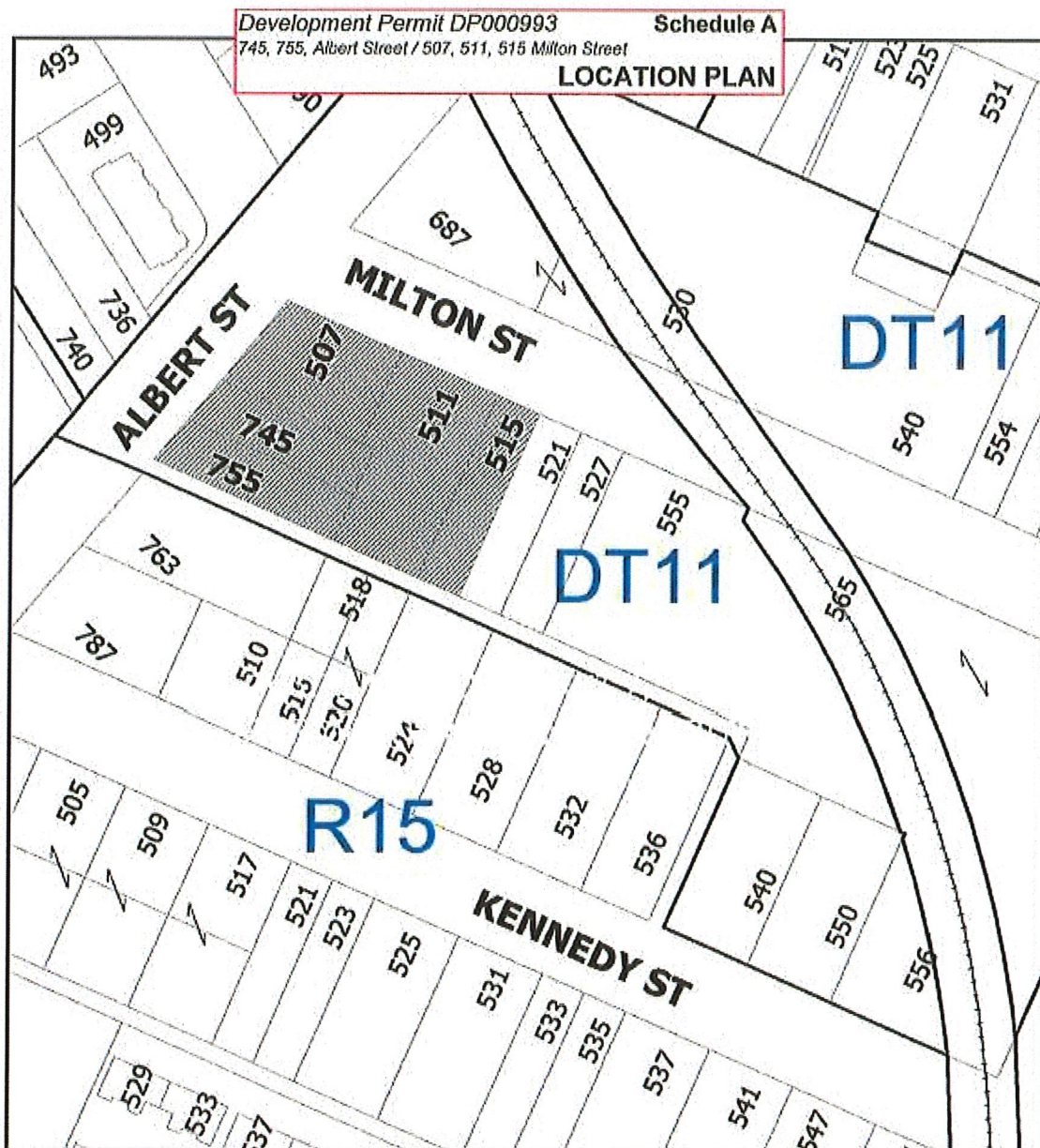
\_\_\_\_\_  
Corporate Officer

AKAL DEVELOPMENT LTD. by its authorized signatory:

  
\_\_\_\_\_

APPENDIX "A" to Revitalization Tax Exemption Agreement


Map of Affected Parcel  
(All properties now consolidated to one parcel)



DEVELOPMENT PERMIT NO. DP000993

**LOCATION PLAN**

Civic: 507, 511 and 515 Millton Street  
and 745 and 755 Albert Street

 **Subject Properties**

## **APPENDIX "B" to Revitalization Tax Exemption Agreement**

### **SCHEDULE "B"**

#### **Revitalization Tax Exemption Certificate**

In accordance with the City of Nanaimo "REVITALIZATION TAX EXEMPTION BYLAW 2018 NO. 7261" (the "Bylaw"), and in accordance with a Revitalization Tax Exemption Agreement dated for reference the 6 day of June, 2023 (the "Agreement") entered into between the City of Nanaimo (the "City") and Akal Development Ltd. (the "Owner"), the registered Owner of *Lot 1, Section 1, Nanaimo District, Plan EPP73881, PID 030-234-093* (the "Parcel"):

This certificate certifies that the Parcel is subject to a revitalization tax exemption equal to the following assessment value of the Parcel: Class 01 Residential: \$568,000 multiplied by the municipal rate of tax in effect for Class 01 – Residential for each of the taxation years 2024 to 2033 inclusive.

The Tax Exemption is provided under the following conditions:

1. The Owner does not breach any term, condition or provision of, and performs all obligations set out in, the Agreement and the Bylaw;
2. The Owner has not sold all or any portion of his or her equitable or legal fee simple interest in the Parcel without the transferee taking an assignment of the Agreement, and agreeing to be bound by it;
3. The Owner, or a successor in title to the Owner, has not allowed the property taxes for the Parcel to go into arrears or to become delinquent;
4. The Exempt Use (as defined in the Agreement) of the Project is not discontinued;
5. The Agreement is not otherwise terminated.

If any of these conditions are not met then the Council of the City of Nanaimo may cancel this Revitalization Tax Exemption Certificate. If such cancellation occurs, the Owner of the Parcel, or a successor in title to the Owner as the case may be, shall remit to the City the recapture amount calculated in accordance with the Bylaw.

**APPENDIX "C" to Revitalization Tax Exemption Agreement**  
**Plans and Specifications for the Project**





**DEVELOPMENT PERMIT NO. DP000993**

**AKAL DEVELOPMENT LTD.**  
Name of Owner(s) of Land (Permittee)

**745, 755 ALBERT STREET / 507, 511, 515 MILTON STREET**  
Civic Address(es)

1. This development permit is issued subject to compliance with all of the bylaws of the municipality applicable thereto, except as specifically varied or supplemented by this permit.
2. This development permit applies to and only to those lands within the municipality described below, and any and all building structures and other developments thereon:

Legal Description:

**LOT 1, SECTION 1, NANAIMO DISTRICT, PLAN 6925**  
**PID 005-791-677**

**LOT 2, SECTION 1, NANAIMO DISTRICT, PLAN 6925**  
**PID 002-334-259**

**AMENDED SECTION B (DD 58754-N) OF LOT 14, BLOCK G, SECTION 1,**  
**NANAIMO DISTRICT, PLAN 584**  
**PID 008-867-470**

**AMENDED SECTION A (DD 58818N) OF LOTS 13 AND 14, BLOCK G,**  
**NANAIMO DISTRICT, PLAN 584**  
**PID 007-805-390**

**THE WEST 1/2 OF SECTION B, OF LOT 8, BLOCK G, SECTION 1,**  
**NANAIMO DISTRICT, PLAN 584**  
**PID 008-864-276**



3. The land described herein shall be developed strictly in accordance with the following terms and conditions and provisions of this permit and any plans and specifications hereto which shall form a part thereof.

**Schedule A Location Plan**  
**Schedule B Site Plan**  
**Schedule C Building Elevations**  
**Schedule D Landscape Plan**  
**Schedule E Proposed Public Art Location**  
**Schedule F Public Art Concept Panels**  
**Schedule G Schedule D – Amenity Requirements for Additional Density**

4. If the applicant does not substantially commence the development permitted by this permit within two years of the date of this permit, the permit shall lapse.
5. This permit is not a building permit nor does it constitute approval of any signage. Separate applications must be made for a building permit and sign permit.

#### TERMS OF PERMIT

The City of Nanaimo "ZONING BYLAW 2011 NO. 4500" is varied as follows:

1. *Section 11.7.1* – to increase the maximum allowable building height for Building A from 10.5m to 10.8m.

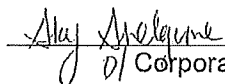
The City of Nanaimo "DEVELOPMENT PARKING REGULATIONS BYLAW 2005 NO. 7013" is varied as follows:

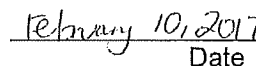
1. *Schedule A (Area #3)* – to reduce the required number of off-street parking spaces for multi-family dwelling units from 25 parking spaces to 19 parking spaces.
2. *Section 14.8* – to reduce the number of required loading spaces from 1 to 0.

CONDITIONS OF PERMIT

1. The subject property is developed in accordance with the site plan prepared by Ian Niamath Architecture, dated 2016-OCT-25.
2. The development is in general compliance with the elevations prepared by Ian Niamath Architecture, dated 2016-OCT-25.
3. The subject property is in general compliance with the landscape plan and specifications prepared by Frank Basciano Landscape Architect, received 2016-AUG-28.
4. The amenity requirements for additional density shall be provided in accordance within the City of Nanaimo "ZONING BYLAW 2011 NO. 4500", Schedule D – Tier 1 Amenity Requirements for Additional Density and as summarized in this permit.
5. A letter from the coordinating professional (architect) is required prior to issuance of building occupancy which confirms the designated points in Category 4 within Schedule D have been obtained.
6. a.) A letter from an electrical or mechanical engineer is required prior to issuance of building occupancy which confirms that the project complies to the ASHRAE 90.1 2007 ENERGY STANDARD (Schedule D – Category 5).  
  
b.) A Letter of Credit for 1% of construction costs is required prior to the issuance of a building permit per Schedule D – Category 5.
7. The provision of public art is in general accordance with the site location and design concept included herein. A public art bond of \$17,000 and public art working drawing with specifications is required prior to building permit issuance.
8. The cash-in-lieu payment of \$39,000 for 13 commercial parking spaces not provided onsite is to be provided prior to building permit issuance.

AUTHORIZING RESOLUTION PASSED BY COUNCIL  
THE 16TH DAY OF JANUARY, 2017.

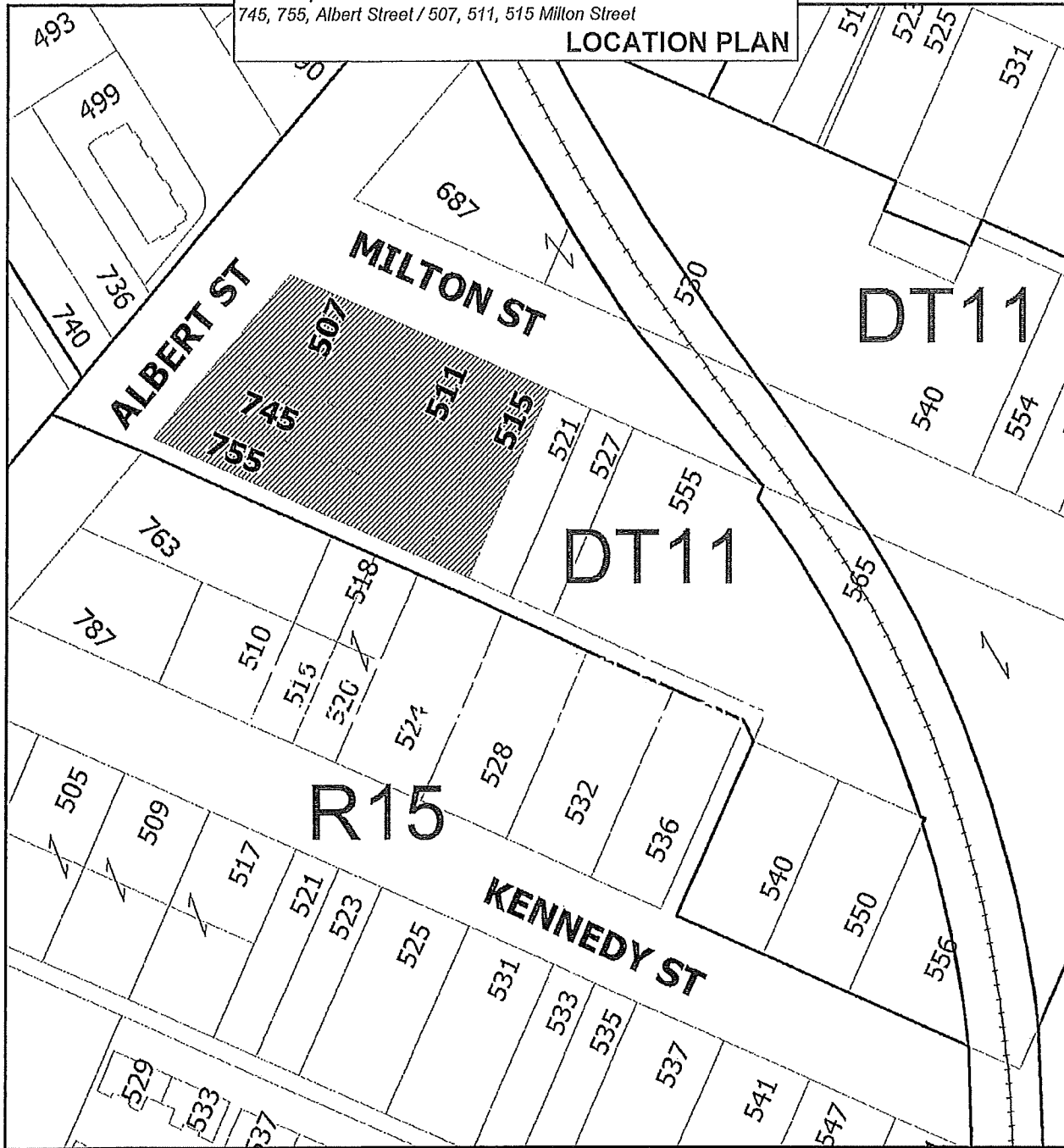
  
Deputy Corporate Officer

  
Date

Sky Snelgrove  
Deputy Corporate Officer  
City of Nanaimo

GN/in  
Prospero attachment: DP000993

Development Permit DP000993 Schedule A  
745, 755, Albert Street / 507, 511, 515 Milton Street  
**LOCATION PLAN**



DEVELOPMENT PERMIT NO. DP000993

**LOCATION PLAN**



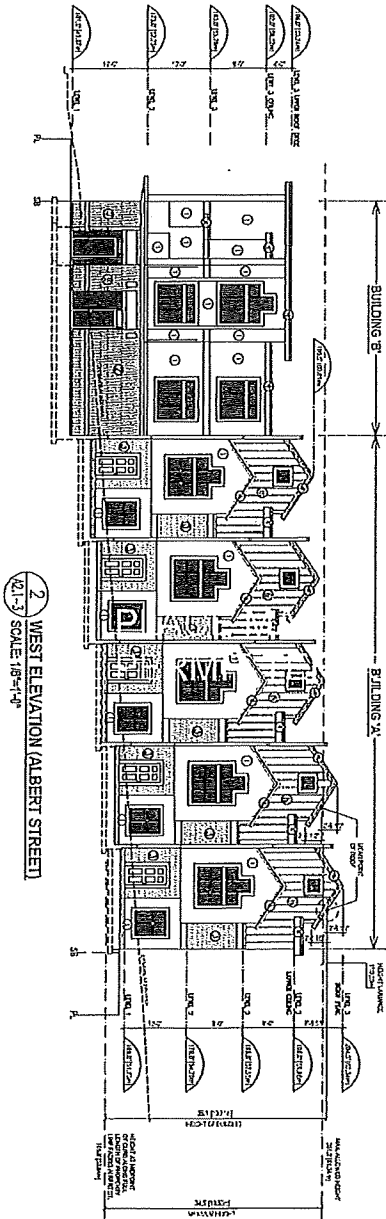
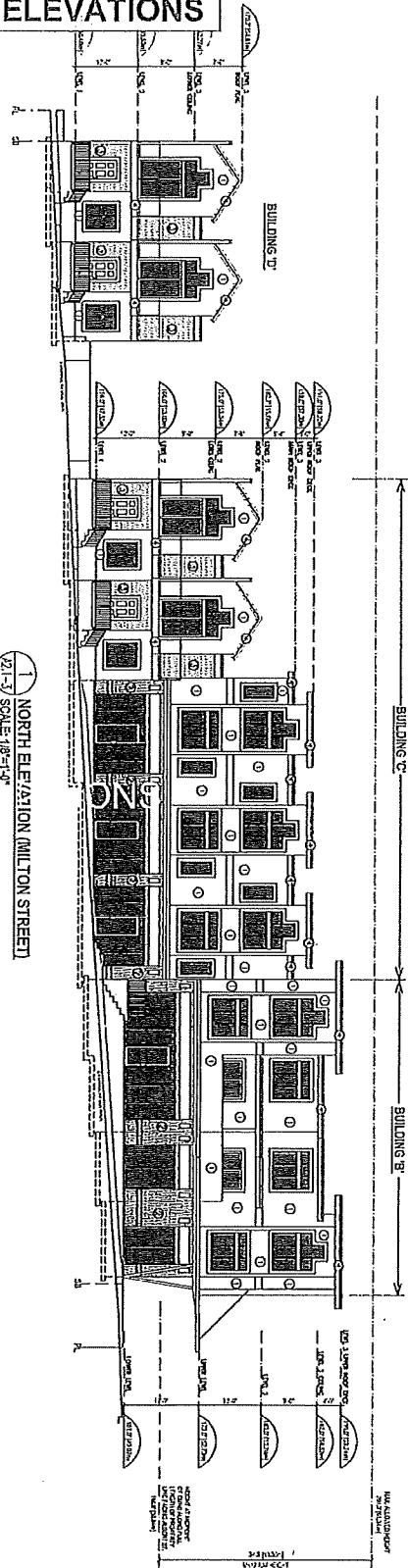
Civic: 507, 511 and 515 Millton Street  
and 745 and 755 Albert Street

 **Subject Properties**



Development Permit DP000993  
745, 755, Albert Street / 507, 511, 515 Milton Street  
1/2 **BUILDING**

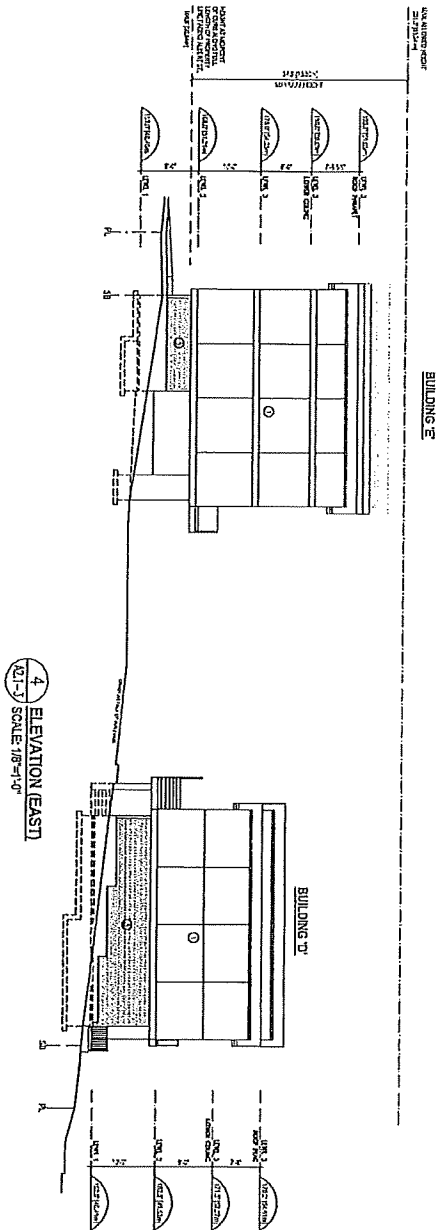
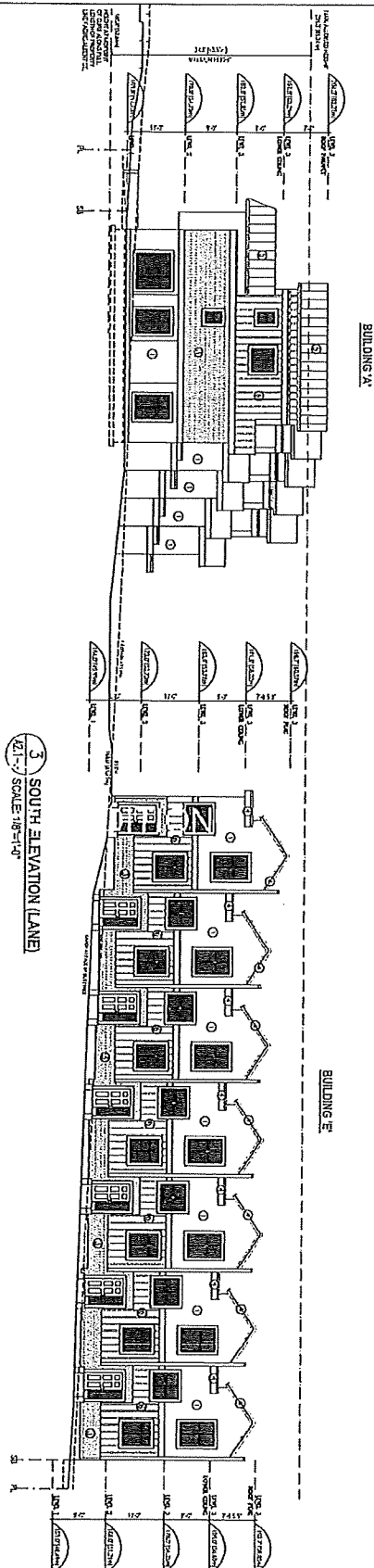
## Schedule C EXEMPTIONS



- LEGEND
- |   |   |
|---|---|
| ① | STUCCO                                  |
| ② | BRICK FACIA                             |
| ③ | HORIZONTAL CEILING<br>FIBRE BOARD JOINT |
| ④ | CEILING FIBRE BOARD                     |
| ⑤ | METAL ROOFING                           |
| ⑥ | BOARD & BATTEN JOINT                    |

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<p>THIS DOCUMENT CONTAINS INFORMATION OF A CONFIDENTIAL NATURE. IT IS TO BE KEPT SECRET AND NOT DISCLOSED TO ANY OTHER PERSON OR ORGANIZATION WITHOUT THE WRITTEN AUTHORIZATION OF THE NATIONAL DEFENSE AGENCY. IT IS TO BE DESTROYED WHEN NO LONGER REQUIRED FOR OFFICIAL USE.</p>	
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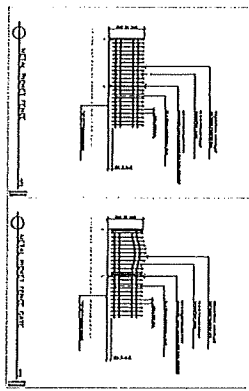
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Development Permit DP000993

Schedule D

745, 755, Albert Street / 507, 511, 515 Milton Street

LANDSCAPE PLAN



CANDIDATE PLANT LIST

- LARGE TREES 6 CM CAL**  
 Ornamental: 2 GAL  
 Small: 1 GAL  
 Broadleaf Evergreen: 1 and 2 GAL
- SMALL TREES 4 CM CAL**  
 Ornamental: 1 GAL  
 Broadleaf Evergreen: 1 GAL
- SHRUBS 4 CM CAL**  
 Ornamental: 1 GAL  
 Broadleaf Evergreen: 1 GAL
- GROUND COVER HERBACEOUS**  
 1 GAL AND 10 CM POT
- ORNAMENTAL GRASSES**  
 1 GAL
- BROADLEAF EVERGREEN VINE**  
 1 GAL

LC1.1

Landscape

Concept Plan

745 755 ALBERT STREET

507 511, 515 MILTON STREET

August 1, 2015

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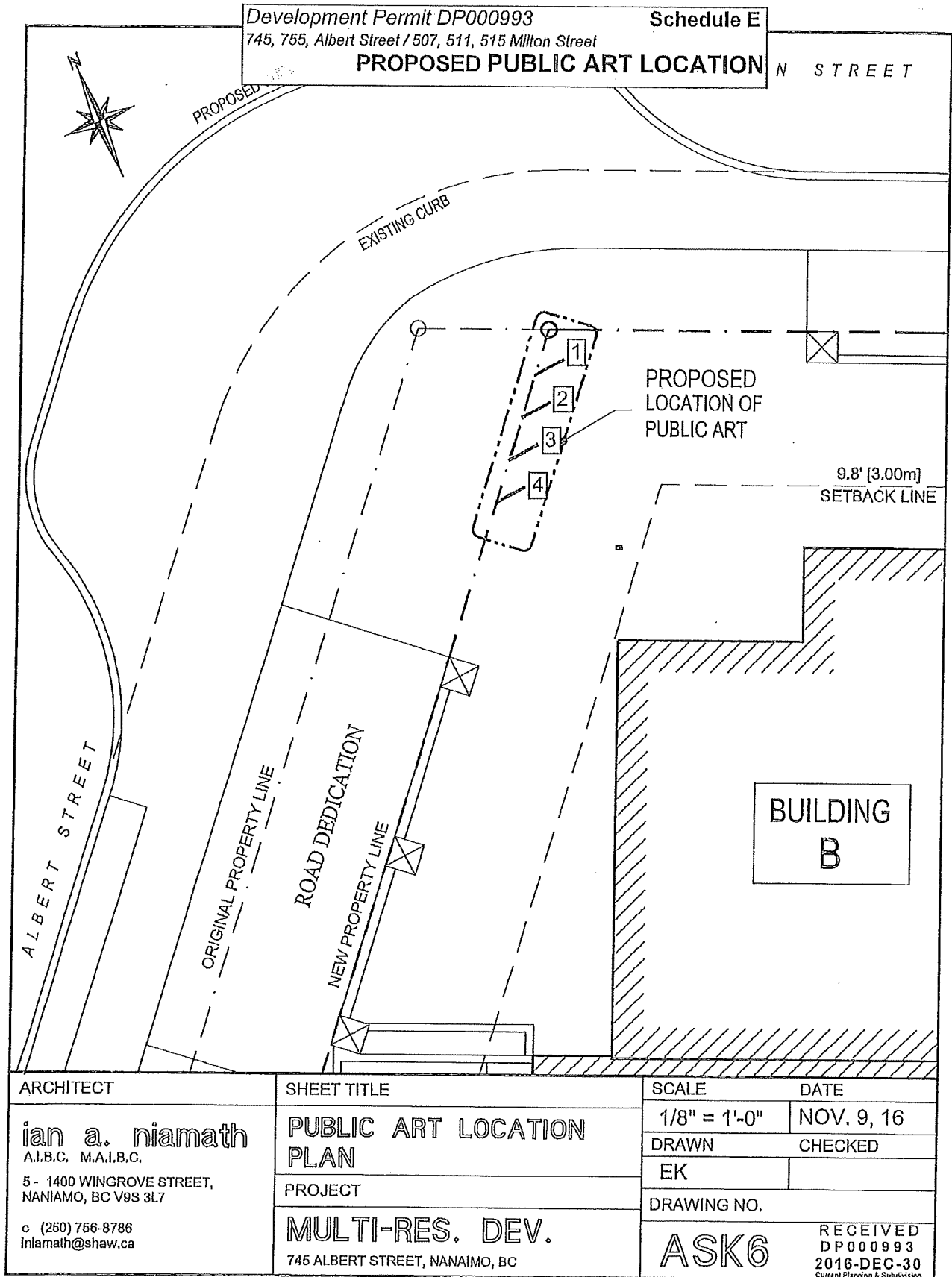
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# ATTACHMENT A

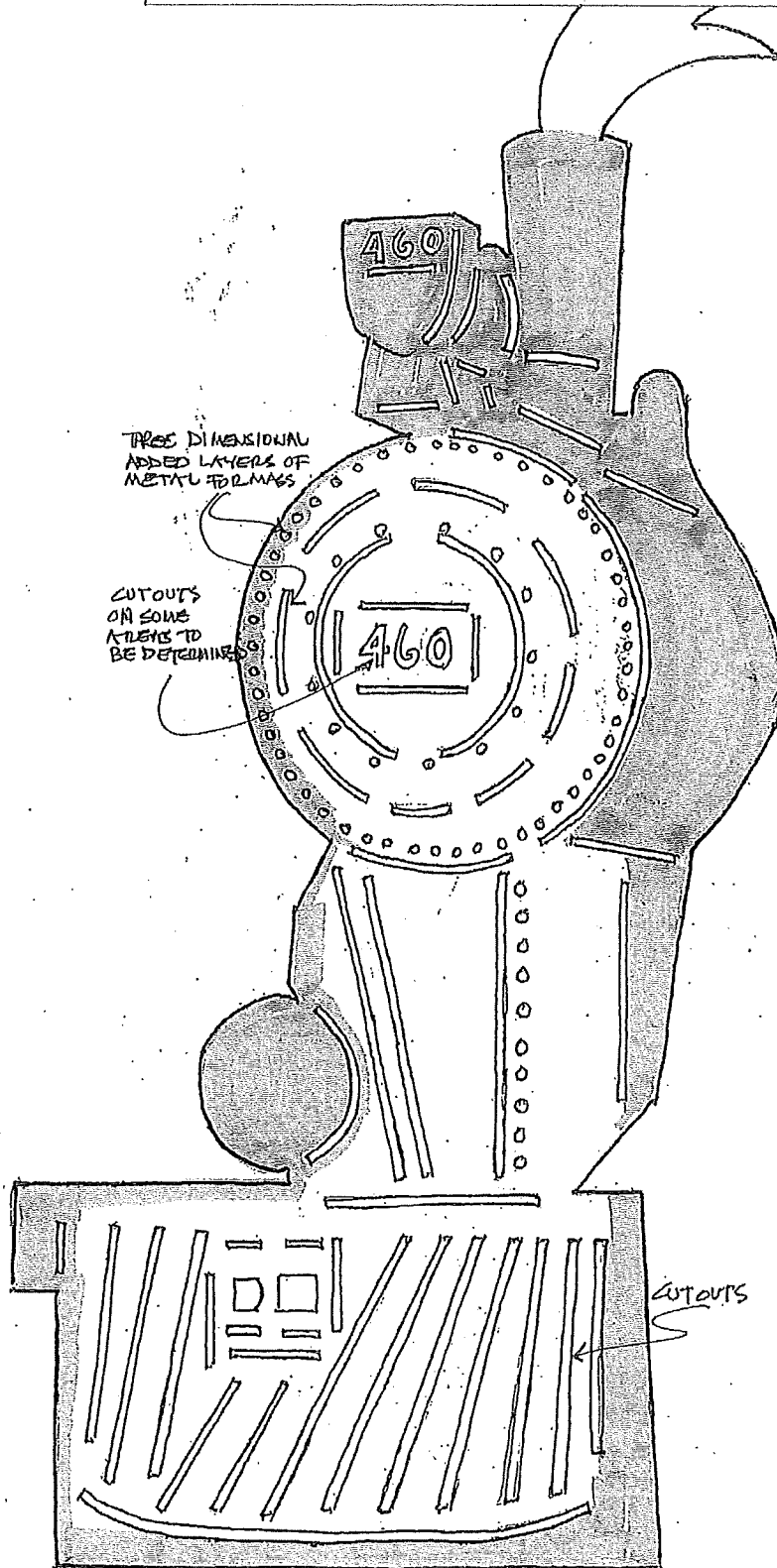


Development Permit DP000993  
745, 755, Albert Street / 507, 511, 515 Millon Street  
1/4

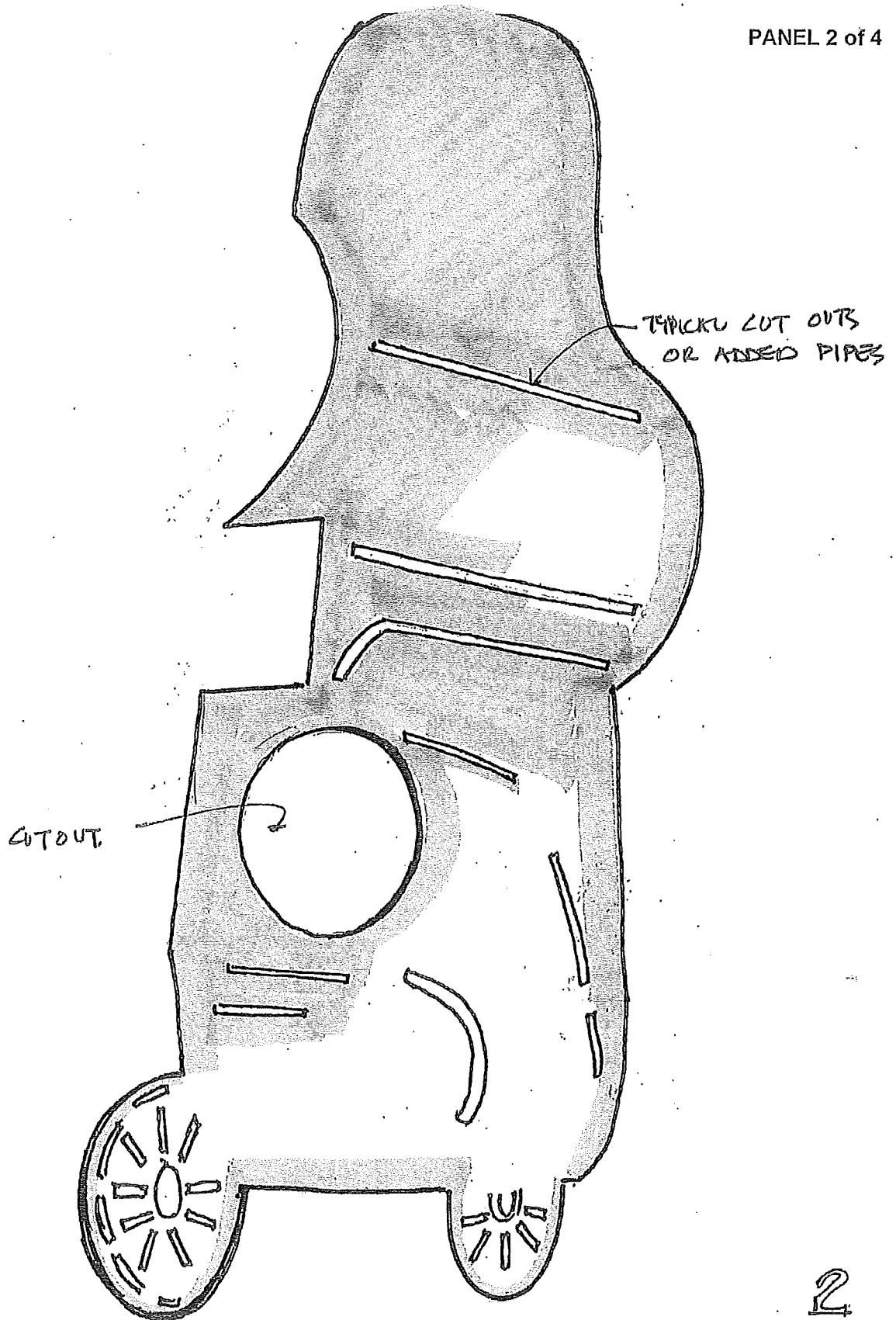
Schedule F

PANEL 1 of 4

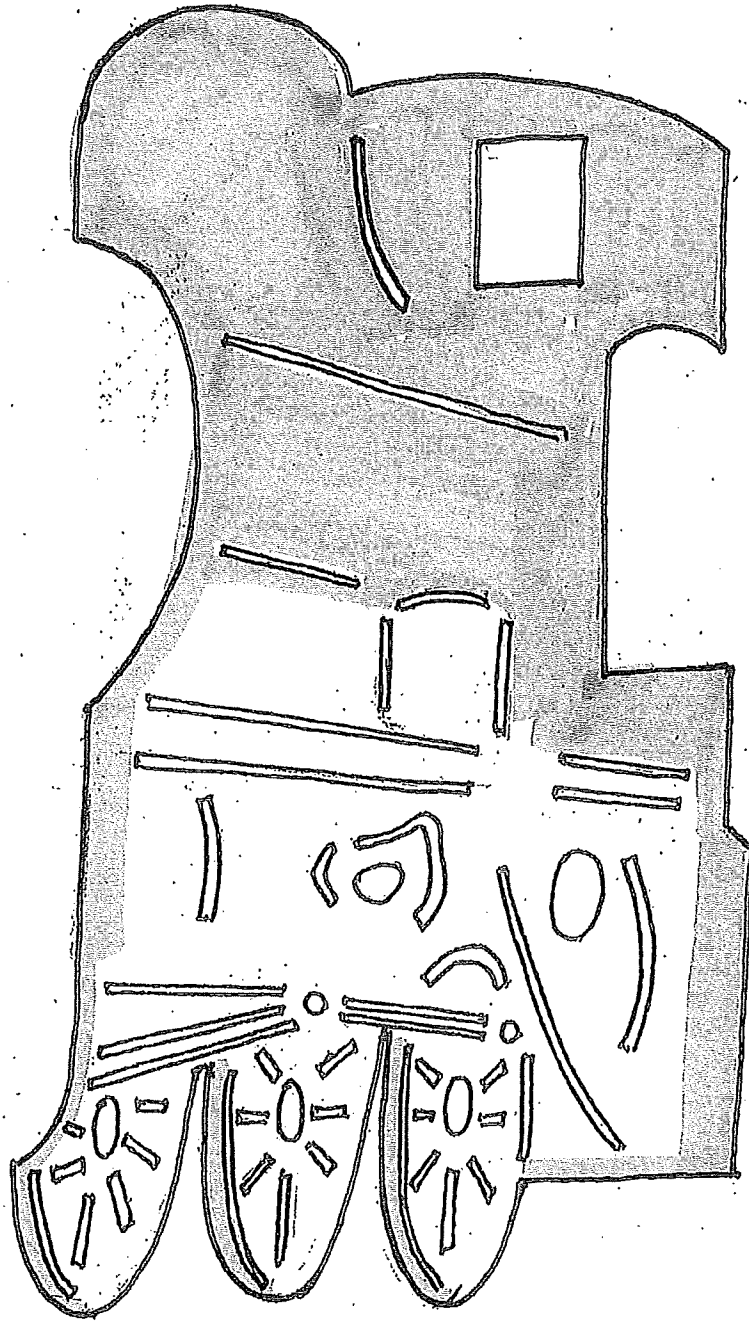
PUBLIC ART CONCEPT PANELS



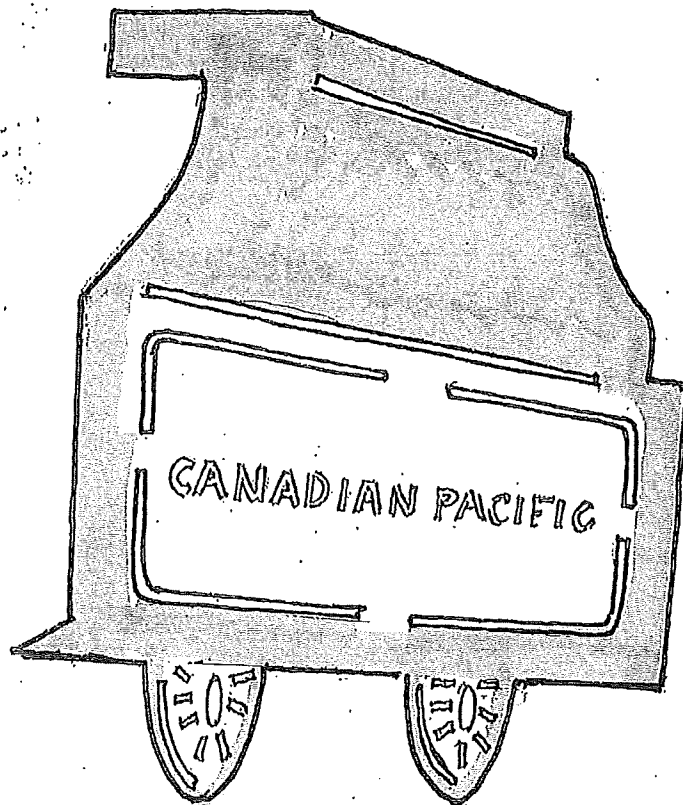
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DP000993  
2016-DEC-30  
Cultural Planning & Subdivision



2



3



RECEIVED  
DP000993  
2016-DEC-30  
Current Planning & Subdivision

<i>Development Permit DP000993</i>	<b>Schedule G</b>
<i>745, 755, Albert Street / 507, 511, 515 Milton Street</i>	
<b>SCHEDULE D - AMENITY REQUIREMENTS FOR ADDITIONAL DENSITY</b>	
<i>1/2</i>	

**REVISED** 745 Albert Street DT11 Multifamily / Commercial Development Tier 1  
Amenity Requirements for Additional Density

<b>Category 1: Site selection and Connectivity (10 points required)</b>	Required	Proposed
The proposed development is located on a brownfield site.	7	-
The proposed development is located on an existing street where the location does not require any new infrastructure such as storms drains, curbs or sidewalks.	2	2
The proposed development is located within 200m of a park or trail network.	2	-
The proposed development is located within 400m of any of the following: • retail store; • daycare facility; • Nanaimo Regional District transit bus stop; • any PRC (Parks, Recreation and Culture) Zoned property; and / or • a CS-1 (Community Service One) zoned property.	1 1 1 1	1 1 1 1
The proposed development will add any of the following amenities on the site, or immediately adjacent to the site, as part of the proposed development: • retail store or public market; • daycare facility; • Nanaimo Regional District transit bus stop; • any PRC (Parks, Recreation and Culture) Zoned property; • a CS-1 (Community Service One) zoned property; and / or • public art.	1 1 1 1 1	1 - - - 1
A pedestrian network is included in the proposed development that connects the buildings on the site with the public road right-of-way and, the pedestrian network from the adjacent site to which there is access by perpetual easement or right-of-way, provided the City agrees to accept the right-of-way.	2	2
<b>TOTAL</b>	<b>22</b>	<b>10</b>

# ATTACHMENT A

<b>Category 4: Building Materials (6 points required)</b>	Required	Proposed
Wood is the primary building material.	2	2
The proposed development uses salvaged, refurbished or reused materials; the sum of which constitutes at least 5%, of the total value of materials on the project.	3	-
At least 50% of all wood products used in construction are certified by the Forest Stewardship Council (FSC) Canada.	4	4 Specification clause
The proposed development uses materials with recycled content such that the sum of the postconsumer recycled material constitutes at least 20%, based on costs, of the total value of the materials in the project.	3	
The project developer has submitted a construction and waste management plan that, at a minimum, identifies the materials to be diverted from disposal and whether the materials will be sorted on site or comingled.	1	-
At least 75% of the materials used in construction are renewable resources.	2	
<b>TOTAL</b>	<b>15</b>	<b>6</b>

Specification clause to be included in the construction documents to ensure wood products supplied for construction are FSC certified.

<b>Category 5: Energy Management (5 points required)</b>	Required	Proposed
<p>The project developer has provided all of the following:</p> <p>a) the City with an energy model in compliance with the ASHRAE 140-2007 Standard for Energy Modeling, specifying carbon emissions per kilowatt hour and minimum ASHRAE 90.1 2007 Energy Standard; and</p> <p>b) letter from an electrical or mechanical engineer stating that the project has complied to the ASHRAE 90.1 2007 Energy Standard; and</p> <p>c) letter of credit for 1% of construction costs, prior to the issuance of a building permit, to be returned upon successful provision of all of the above to the satisfaction of the Manager of Building Inspections or designate.</p>	5	5
<b>TOTAL</b>	<b>5</b>	<b>5</b>