

# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall 1229 Esquimalt Road Esquimalt, B.C. V9A 3P1

# Staff Report

File #:20-258

# REQUEST FOR DECISION

**DATE:** May 27, 2020 Report No. DEV-20-031

**TO:** Laurie Hurst, Chief Administrative Officer

**FROM:** Trevor Parkes, Senior Planner and Bill Brown, Director of Development Services

#### SUBJECT:

Request to Waive Public Hearing for Rezoning Application - 874 Fleming Street.

#### **RECOMMENDATION:**

That Council waive the Public Hearing pursuant to *Local Government Act*, Section 464(2) for Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2988 attached as Appendix A to Staff Report No. DEV -20-031, which would amend Zoning Bylaw, 1992, No. 2050, by changing the zoning designation of 874 Fleming Street [PID 002-900-246, Lot B, Section 10, Esquimalt District, Plan 25267], shown cross-hatched on Schedule 'A' of Bylaw No. 2988, from Multiple Family Residential [RM-4] to Comprehensive Development District No. 130 [CD. No.130].

#### RELEVANT POLICY:

Ministerial Order No. M139 - Order of the Provincial Health Officer *Mass Gathering Events* Declaration of a Climate Emergency

Local Government Act

Official Community Plan Bylaw, 2018, No. 2922

Zoning Bylaw, 1992, No. 2050

Parking Bylaw, 1992, No. 2011

Development Application Procedures and Fees Bylaw, No. 2791, 2012

Advisory Planning Commission Bylaw, 2012, No. 2792

Subdivision and Development Control Bylaw, 1997, No. 2175

#### STRATEGIC RELEVANCE:

Livable, healthy and diverse community - support community growth, housing, and development consistent with our Official Community Plan (OCP).

#### **BACKGROUND:**

Appendix A: Bylaw No. 2988 - Zoning Amendment [CD130] - 874 Fleming Street

Appendix B: DRAFT Notice of Public Hearing Waived

Appendix C Architectural Drawings, BCLS, Landscape Plan

# Purpose of the Application

The purpose of Staff Report No. DEV-20-031 is to recommend to Council that the Public Hearing for the rezoning application for 874 Fleming Street be waived pursuant to *Local Government Act* Section 464(2).

Responding to the unusual situation created by the COVID-19 pandemic, the Province has identified two approaches that local governments can use to process applications, including with or without holding Public Hearings that recognize physical distancing limitations:

- 1. Waiving the Public Hearing for rezoning applications that are consistent with the Official Community Plan (OCP). Section 464 (2) of the *Local Government Act* (LGA) already authorizes a Council to do this under normal circumstances, and the Province has recently encouraged local governments to consider this approach due to the Order of the Provincial Health Officer *Mass Gathering Events* that prevents the public from physically attending Public Hearings; or
- 2. Holding electronic Public Hearings, as per Ministerial Order 139 (M139) that was issued to local governments on May 1, 2020. Intended to be in effect during the period of the declaration of a state of emergency, M139 adds to existing LGA legislation by authorizing Councils to hold Public Hearings through electronic or other communication facilities. This enables the public to provide direct oral input to Council by way of participating before Council via tele-conference, in addition to written public input submissions, and does not require the public to be physically present before Council.

#### **ISSUES:**

1. The *Local Government Act* has permitted the waiving of Public Hearings prior to this pandemic and in the interest of supporting continued economic activity within the Township, staff have identified the rezoning application for 874 Fleming Street as a reasonable rezoning application for waiving the Public Hearing.

The rationale for this includes:

- The proposed rezoning to CD-130 Zone is consistent with both OCP land use policies and the Proposed Land Use Designation of Medium Density Residential identifying six storey Multiple Family Residential development as appropriate for the subject property and adjacent parcels in this area;
- 2. The applicant held a Community Open House on May 29, 2019 in the Esquimalt High School Library for which 308 notices were mailed to residents in the area surrounding the subject property. Twenty-seven people attended the meeting with four providing written comments all of which expressed support for the rezoning and the proposed design. One resident expressed reservations regarding the 6-storey height of the building.
- 3. The addition of desirable, affordable, family and senior oriented housing close to transit services (municipal pathway links site directly to Craigflower Road) and abutting a park would improve housing choice in the area and for the region;
- 4. The proposed rezoning application is slightly higher than the maximum density cited in the OCP for Medium Density Residential development, however, the applicant is offering to

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- provide all 137 units as affordable housing (via a Housing Agreement Bylaw) thereby achieving consistency with the OCP density bonus policy.
- 5. The proposed building height is similar to the maximum height for other recently approved Medium Density Residential applications in the Township and it is expected that abutting land is likely to be developed to a similar height and density in the foreseeable future; and
- 6. Waiving the Public Hearing on June 1, 2020 will enable Council to consider 3<sup>rd</sup> reading of Amendment Bylaw No. 2988 on or after June 22, 2020. This will facilitate a timely process for the applicant, who is motivated to complete this rezoning as a step toward undertaking construction.
- 2. Organizational Implications

This Request for Decision has no significant organizational implications.

3. Financial Implications

This Request for Decision has no significant financial implications.

- 4. Sustainability & Environmental Implications Sensitive densification well served by transit and in proximity to local services and parks is accepted as a sustainable approach to community development.
- 5. Communication & Engagement Should Council waive the public hearing, staff would undertake notification pursuant to *Local Government Act*, Section 467 including mailing out a Notice of Public Hearing Waived (see DRAFT version Appendix B) to tenants and owners of properties within 100m (328 ft) of the subject property. Signs indicating that the property is under consideration for a change in zoning have been placed on the Fleming Street frontage of the property and would be updated to reflect the date, time and location of the Council Meeting at which the application would be considered for 3<sup>rd</sup> reading. Additionally, Notice of Public Hearing Waived would be placed in two editions of the Victoria News.

### **ALTERNATIVES:**

- 1. Council waive the Public Hearing pursuant to *Local Government Act, Section* 464(2) for Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2988 which would amend Zoning Bylaw, 1992, No. 2050, by changing the zoning designation of 874 Fleming Street from Multiple Family Residential [RM-4] to Comprehensive Development District No. 130 [CD. No.130] and directs staff to return Amendment Bylaw No. 2988 for consideration of 3<sup>rd</sup> reading.
- 2. Council proceeds with a Public Hearing. Unless the Order of the Provincial Health Officer *Mass Gathering Events* changes this requires staff to develop an electronic Public Hearing process and then proceed to schedule the electronic Public Hearing. This alternative is not recommended.

#### **CORPORATION OF THE TOWNSHIP OF ESQUIMALT**

#### **BYLAW NO. 2988**

A Bylaw to amend Bylaw No. 2050, cited as the "Zoning Bylaw, 1992, No. 2050"

THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT, in open meeting assembled, enacts as follows:

- 1. This bylaw may be cited as the "ZONING BYLAW, 1992, NO. 2050, AMENDMENT BYLAW NO. 2988".
- 2. That Bylaw No. 2050, cited as the "Zoning Bylaw, 1992, No. 2050" be amended as follows:
  - (1) by adding the following words and figures in Section 31, Zone Designations, in the appropriate alpha-numeric sequence:
    - "Comprehensive Development No. 130 (874 Fleming Street) CD No. 130"
  - by adding the following text as Section 67.117 (or as other appropriately numbered subsection within Section 67):

# 67.117 COMPREHENSIVE DEVELOPMENT DISTRICT NO. 130 [CD NO. 130]

In that Zone designated as CD No. 130 [Comprehensive Development District No. 130] no Building or Structure or part thereof shall be erected, constructed, placed, maintained or used and no land shall be used except in accordance with and subject to the regulations contained in or incorporated by reference into this Section.

#### (1) Permitted Uses

The following Uses and no others shall be permitted:

- (a) Dwelling Multiple Family
- (b) Home Occupation

#### (2) Parcel Size

The minimum Parcel Size of fee simple Parcels created by subdivision shall be 3900 square metres.

#### (3) Number of Principal Buildings

Not more than one (1) Principal Building shall be located on a Parcel.

# (4) Number of Dwelling Units

No more than one hundred thirty-seven (137) Dwelling Units shall be located on a Parcel

# (5) Floor Area Ratio

- (a) The Floor Area Ratio shall not exceed 2.0.
- (b) The maximum Floor Area Ratio may be increased to 2.1 upon the owner entering into a Housing Agreement under Section 483 of the Local Government Act with the Township, securing all the dwelling units as affordable housing, restricting stratification of the building, and including provisions related to the administration, management and reporting in accordance with the Township's customary form.

#### (6) **Building Height**

No Principal Building shall exceed a Height of 22 metres.

### (7) Number of Storeys

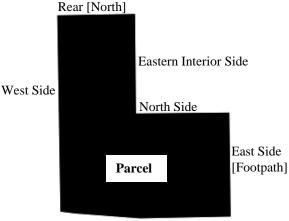
The maximum number of Stories shall be six (6).

# (8) Lot Coverage

- (a) Principal Buildings shall not cover more than 70% of the Area of the Parcel including a parking structure.
- (b) Notwithstanding 8(a), that portion of the Principal Building constructed at or above the First Storey shall not cover more than 50% of the Area of the Parcel.

# (9) Siting Requirements

Within this CD-130 Zone, lot lines, setbacks and yards shall be determined in accordance with Figure 1 (below).



Front [Fleming Street]

Figure 1.

# (a) Principal Building:

(i) Front Setback: A Principal Building shall be located as follows:

- 1. No Principal Building shall be located within 6.9 metres of the Front Lot Line.
- 2. That portion of the Principal Building defined by the canopy of the front entry area and associated support columns, located on the First Storey of the Principal Building and measuring not more than 7.5 metres in width along the front face of the Principal Building, must be setback a minimum of three (3) metres more from the Front Lot Line.
- (ii) East Side Setback: No Principal Building shall be located within 3.9 metres of the East Side Lot Line.
- (iii) North Side Setback: No Principal Building shall be located within 7.5 metres of the North Side Lot Line.
- (iv) Eastern Interior Side Setback: No Principal Building shall be located within 5.3 metres of the Eastern Interior Side Lot Line.
- (v) West Side Setback: A Principal Building shall be located as follows:
  - No portion of the First Storey of the Principal Building shall be located within 4.7 metres of the West Side Lot Line.
  - 2. No portion of the Principal Building above the First Storey shall be located within 5.7 metres of the West Side Lot Line.
  - 3. The portion of the Principal Building above the First Storey must be setback a minimum of one (1) metre more from the West Side Lot Line than the First Storey.
  - 4. Notwithstanding all other requirements of Section 9(a)(v), no portion of a Principal Building at or above the First Storey, located within 15.5 metres of the Rear Lot Line, shall be located within 5.1 metres of the West Side Lot Line.
- (vi) Rear Setback: No Principal Building shall be located within 7.4 metres of the Rear Lot Line.

#### (b) Accessory Buildings:

No Accessory Buildings shall be permitted.

# (10) Siting Exceptions

# (a) Principal Building:

(i) The minimum distance to the Front Lot Line may be reduced by not more than 1.4 metres to accommodate building support columns located on the First Storey.

- (ii) The minimum distance to the Front Lot Line may be reduced by not more than 1.6 metres to accommodate that portion of the Principal Building located above the First Storey.
- (iii) The minimum distance to the North Side Lot Line may be reduced by not more than 0.7 metres to accommodate that portion of the Principal Building located above the First Storey.
- (iv) The minimum distance to the Eastern Interior Side Lot Line may be reduced by not more than 0.4 metres to accommodate that portion of the Principal Building located above the First Storey.
- (v) The minimum distance to a Lot Line may be reduced by not more than the following distances to accommodate the parking structure situated below the First Storey of a Principal Building:

Front Lot Line:
 East Side Lot Line:
 North Side Lot Line:
 Eastern Interior Side Lot Line:
 West Side Lot Line:
 Rear Lot Line:
 5.0 metres
 4.7 metres
 1.2 metres
 2.8 metres
 6.5 metres

- (vi) Notwithstanding Section 10(v), the minimum distance to the Front Lot Line may be reduced to 0.0 metres to accommodate the potion of the underground parking structure designated for use as an electrical substation and electrical, mechanical, and water service rooms measuring not more than 18.5 metres in width along the Front Lot Line.
- (vii) The minimum distance to the Front Lot Line may be reduced by not more than 2.8 metres to accommodate the above ground structure at the parkade entrance.
- (viii) The minimum distance to the West Side Lot Line may be reduced by not more than 2.7 metres to accommodate the portion of the underground parking structure designated for a garbage and recycling room and the above ground structure at the parkade entrance.

#### (11) **Roof**

(a) Roof Top Coverage: Notwithstanding Zoning Bylaw No. 2050, Section 15(4)(a), in the CD-130 zone Structures exceeding the maximum allowable Building Height must occupy less than 15% the area of the roof.

(b) Roof Overhang: Notwithstanding Zoning Bylaw No. 2050, Section 16(1)(b), in the CD-130 zone the required setback may be reduced by not more than 1.3 meters to accommodate roof eaves.

#### (12) Fencing

Subject to Section 22 no fence shall exceed a Height of 1.2 metres In front of the front face of the Principal Building and 2 metres behind the front face of the Principal Building.

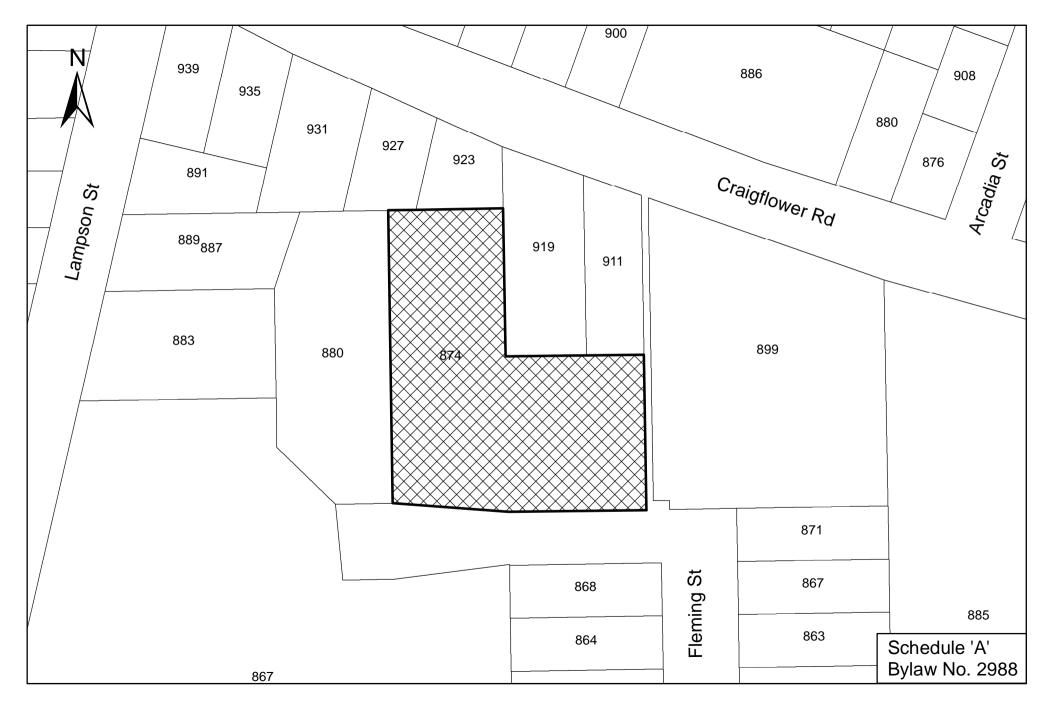
#### (13) Usable Open Space

Usable Open Space shall be provided in an amount not less than 6.0% of the Area of the Parcel.

### (14) Off-Street Parking

- (a) Off street parking shall be provided in accordance with Parking Bylaw, 1992, No. 2011(as amended).
- (b) Notwithstanding Section 13 of Parking Bylaw, 1992, No. 2011(as amended), off-street parking shall be provided in the minimum ratio of 0.48 spaces per dwelling unit.
- (c) Notwithstanding Section 11(1) of Parking Bylaw, 1992, No. 2011(as amended), a minimum of 13 parking spaces shall be marked "Visitor".
- (d) Notwithstanding Section 16 of Parking Bylaw, 1992, No. 2011(as amended), one parking space shall be provided in the surface parking area having dimensions of not less than 3.3 metres width and 6.3 metres length and shall be clearly designated as a Loading Area.
- (3) by changing the zoning designation of PID 002-900-246 Lot B, Section 10, Esquimalt District, Plan VIP25267 [874 Fleming Street], shown cross-hatched on Schedule "A" attached hereto, from RM-4 [Multiple Family Residential] to CD No. 130 [Comprehensive Development District No. 130].
- (4) by changing Schedule 'A' Zoning Map, attached to and forming part of "Zoning Bylaw, 1992, No. 2050" to show the changes in zoning classification effected by this bylaw.

READ a first time by the Municipal Council on the 24 <sup>th</sup> day of February, 2020.
READ a second time by the Municipal Council on the 24 <sup>th</sup> day of February, 2020.
A Public Hearing was held pursuant to Sections 464, 465, 466 and 468 of the <i>Local Government Act</i> on the day of, 2020.
READ a third time by the Municipal Council on the day of, 2020.
ADOPTED by the Municipal Council on the day of, 2020.
BARBARA DESJARDINS RACHEL DUMAS MAYOR CORPORATE OFFICER







May 27, 2020

# NOTICE OF WAIVED PUBLIC HEARING

REZONING APPLICATION
Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2988

Dear resident,

There is an application for a Rezoning in your neighbourhood. The Township has received this application from the registered owner of 874 Fleming Street (see map below) to permit the replacement of the existing 77 unit building with a new 137 unit building consisting entirely of affordable housing units.

Notice is hereby given that the Council of the Township of Esquimalt has waived the holding of a public hearing in relation to the associated Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2988, in accordance with Section 464(2) and 467 of the *Local Government Act*. The *Local Government Act* does not require the holding of a public hearing in relation to zoning bylaw amendments that are consistent with the municipality's Official Community Plan.

# **Details:**

#### **Purpose of the Application**

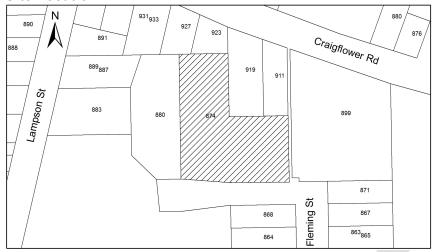
Amendment Bylaw No. 2988 provides for the following change to Zoning Bylaw, 1992, No. 2050 with respect to the affected lands:

• change in zoning designation from Multiple Family Residential [RM-4] to Comprehensive Development District No. 130 [CD No. 130].

The general purpose of this change in zoning is to allow 137 new affordable housing residences, tailored to meet the needs of families and seniors, to be constructed in a six storey building on the subject property. The comprehensive development zone is written with specific permitted uses, density, setbacks, height, lot coverage and parking regulations for this proposal.

1229 Esquimalt Road Esquimalt BC V9A 3P1 t. 250-414-7103 f. 250-414-7160 www.esquimalt.ca

#### Site Location:



# **Description of Land: 1048 Tillicum Road**

- Parcel Identifier (PID): 002-900-246
- Legal description: Lot B, Section 10, Esquimalt District, Plan 25267

### Where and When Further Information can be Obtained

Copies of **Zoning Bylaw**, **1992**, **No. 2050**, **Amendment Bylaw No. 2988** may be inspected, and other information related to this application may be reviewed from June XX until June XX, 2020:

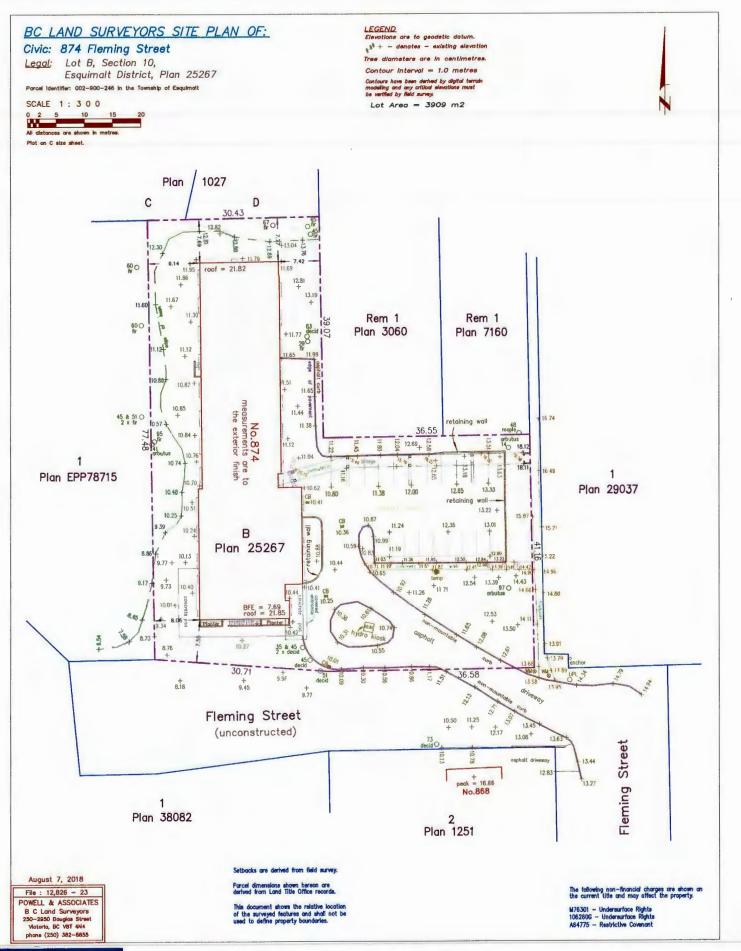
- online, by visiting the municipal website at <a href="www.esquimalt.ca/development">www.esquimalt.ca/development</a> (see the "development tracker" link) or
- upon request, at Town Hall by booking an appointment either by emailing <u>trevor.parkes@esquimalt.ca</u> or contacting Development Services staff via phone at 250-414-7103.

**More information about the project:** Trevor Parkes, Senior Planner, Development Services; 250-414-7148; trevor.parkes@esquimalt.ca

More information about development at the Township of Esquimalt: Esquimalt.ca/development

Thank you, Rachel Dumas, Corporate Officer 250-414-7135





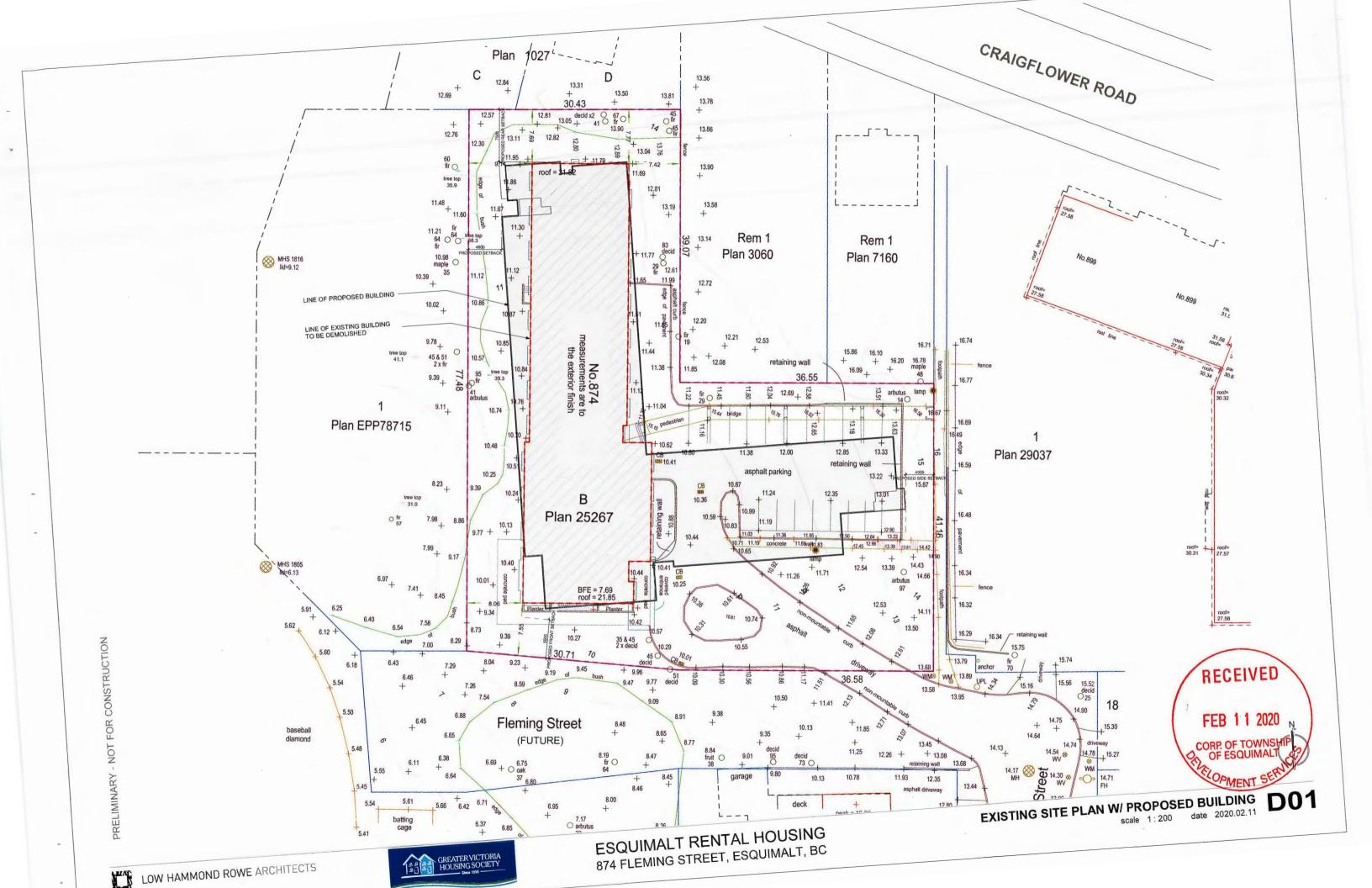




LOW HAMMOND ROWE ARCHITECTS







# AVERAGE GRADE CALCULATION W/ BASEMENT PROTRUSION: ALL DATUMS IN GEOGETIC IN METRES

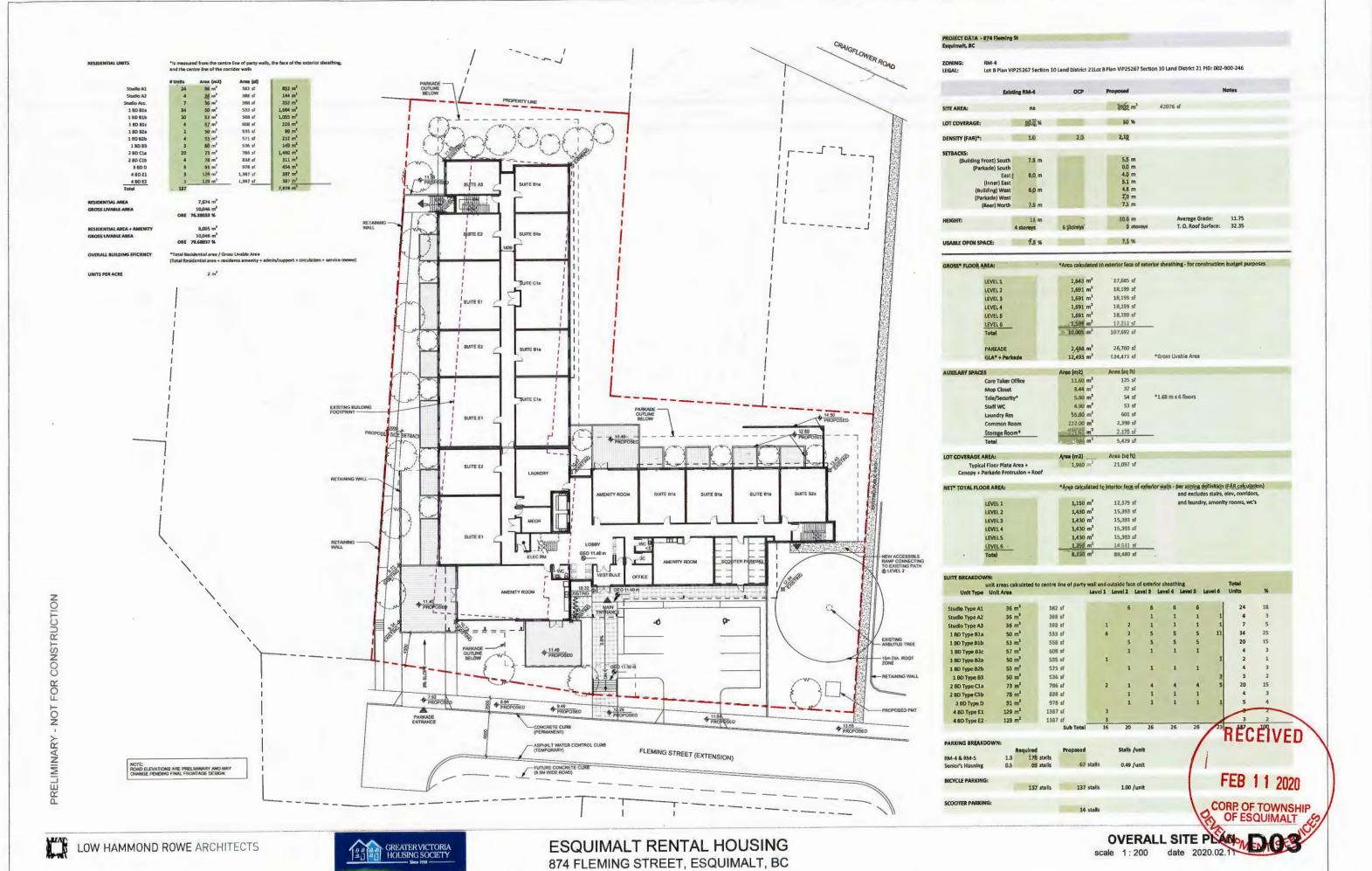




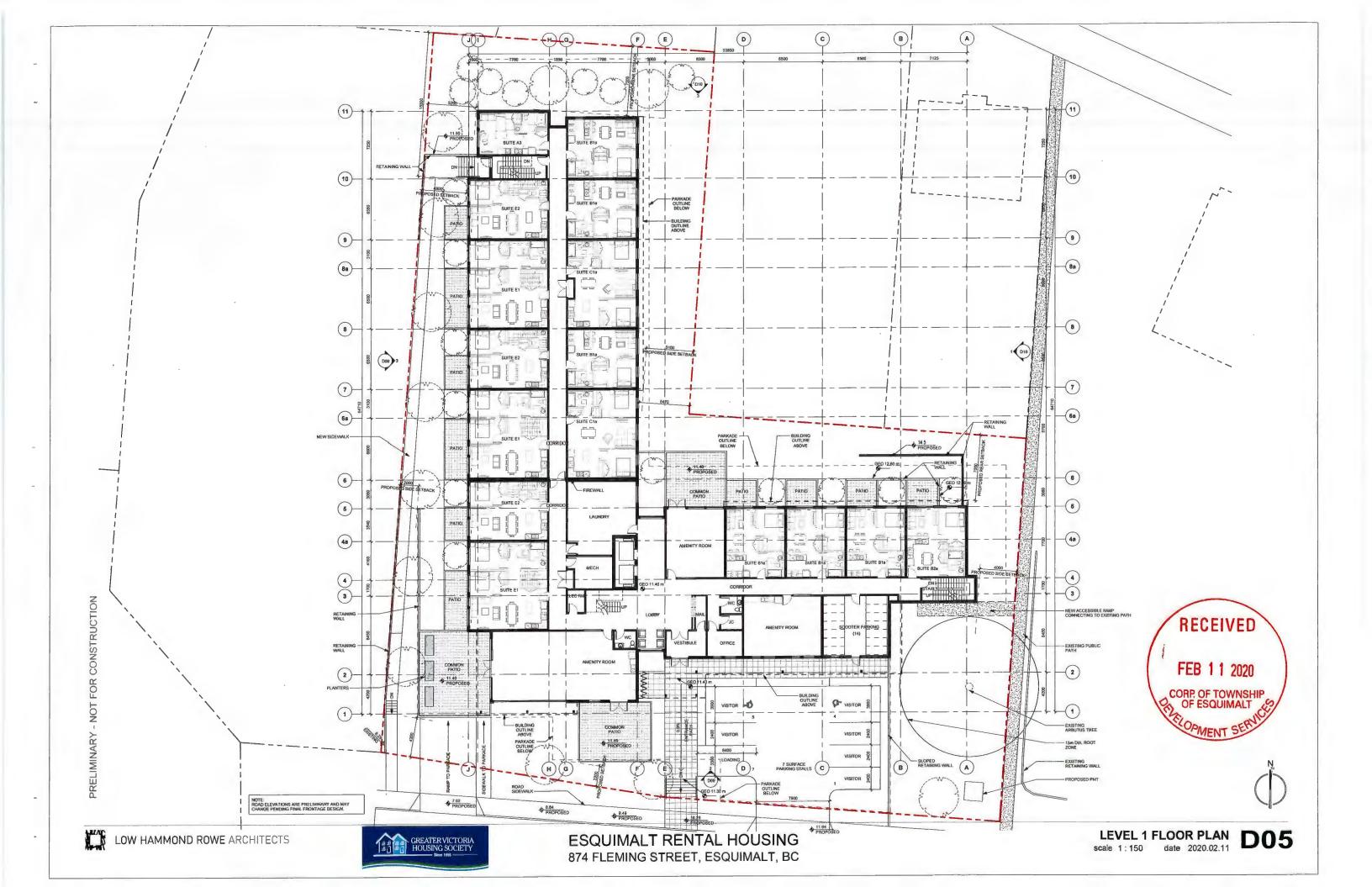


- NOT FOR CONSTRUCTION





Revised: 2020.01.27



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PRELIMINARY - NOT FOR CONSTRUCTION



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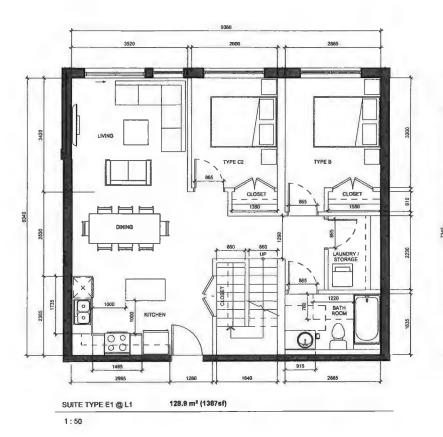


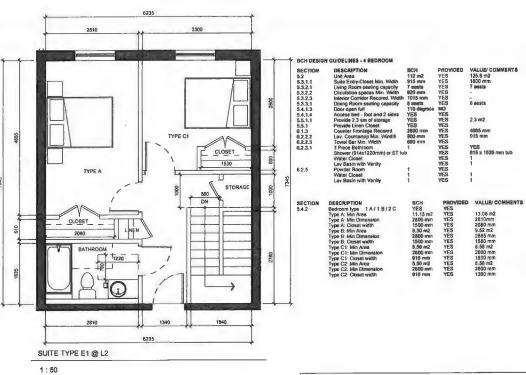




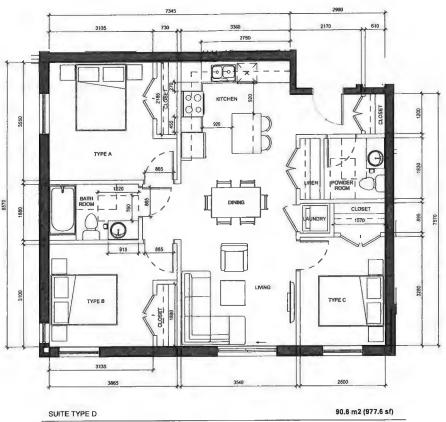


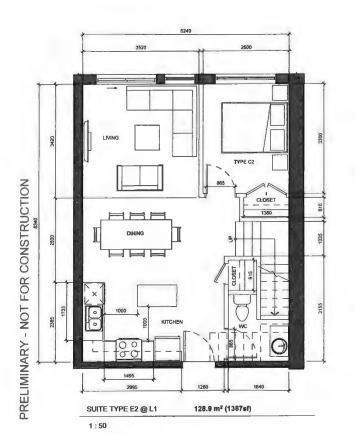


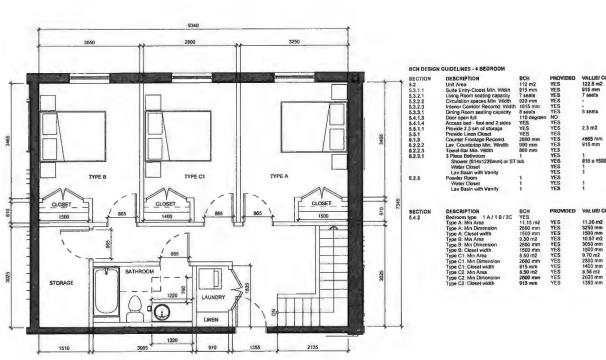


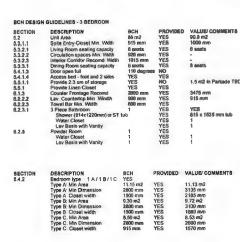


UNIT AREA CALCULATED FROM THE CENTRE LINE OF DEMISING WALLS, CENTRE LINE OF CORRIDOR WALLS AND OUTSIDE FACE OF SHEATHING ON EXTERIOR WALLS. TOWNHOUSE INTERIOR STAIR AREAS ARE ONLY CALCULATED AT GROUND LEVEL.









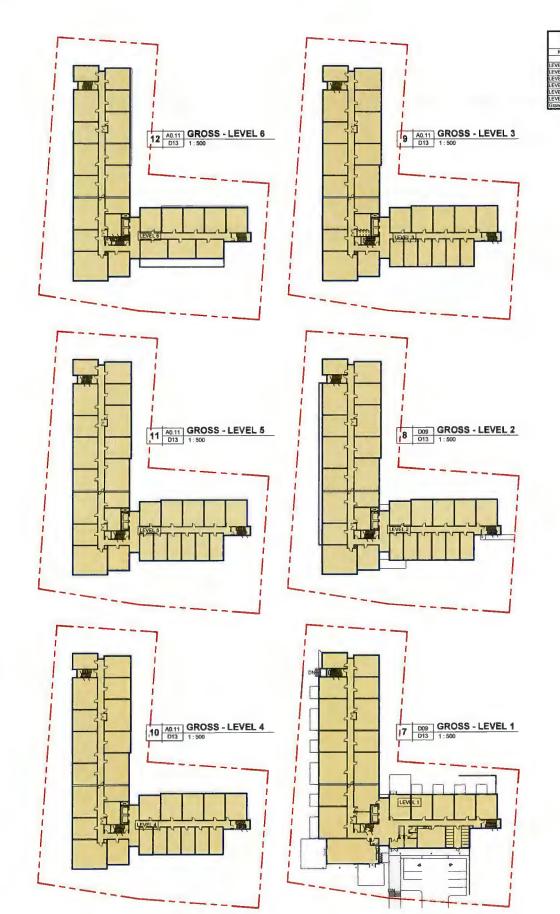
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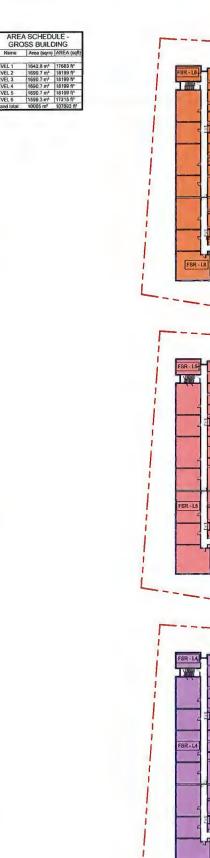






SUITE TYPE E2 @ L2







TOTAL AREA:

RECEIVED FEB 1 1 2020 CORP. OF TOWNSHIP



- NOT FOR CONSTRUCTION





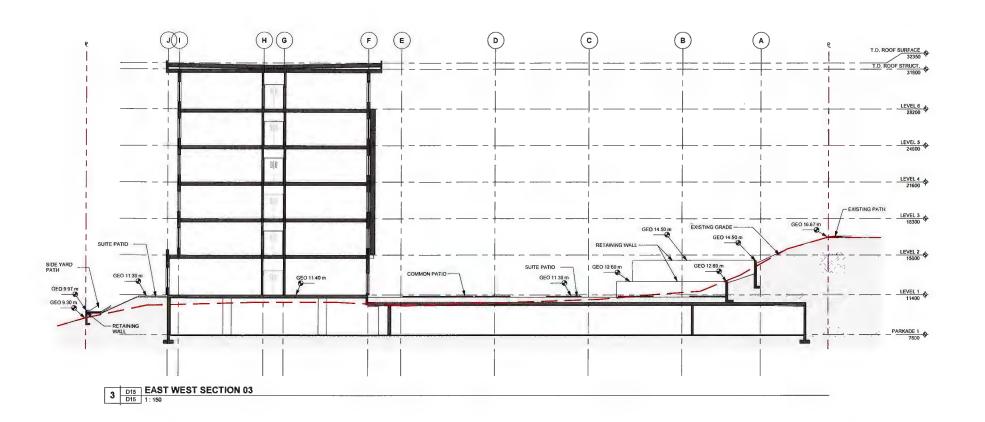
AERIAL VIEW

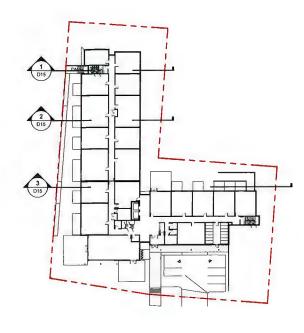
VIEW FROM FLEMING STREET



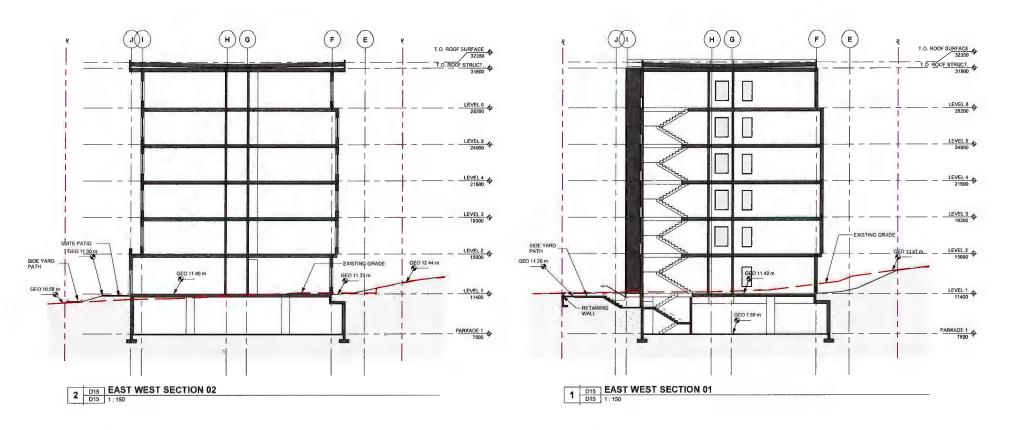








SECTION KEY PLAN

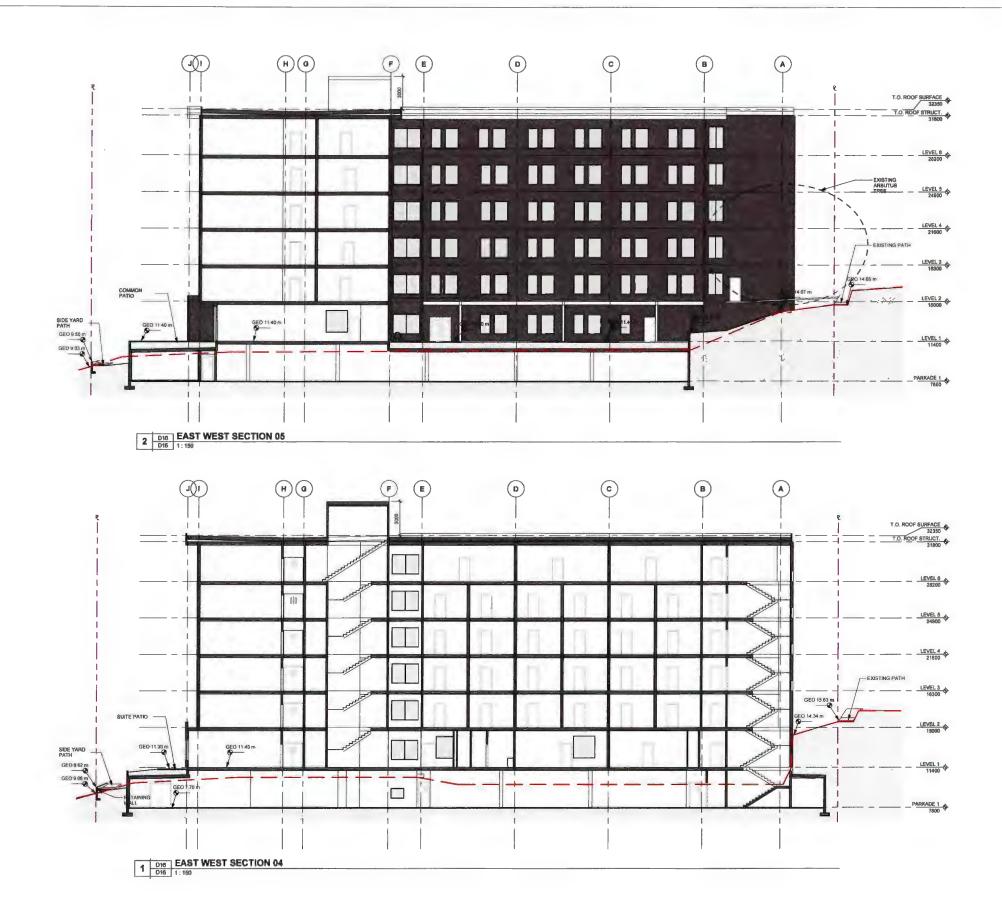


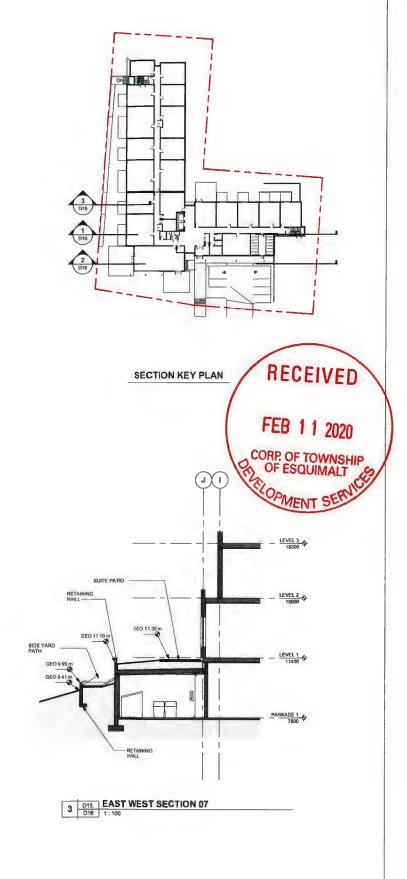






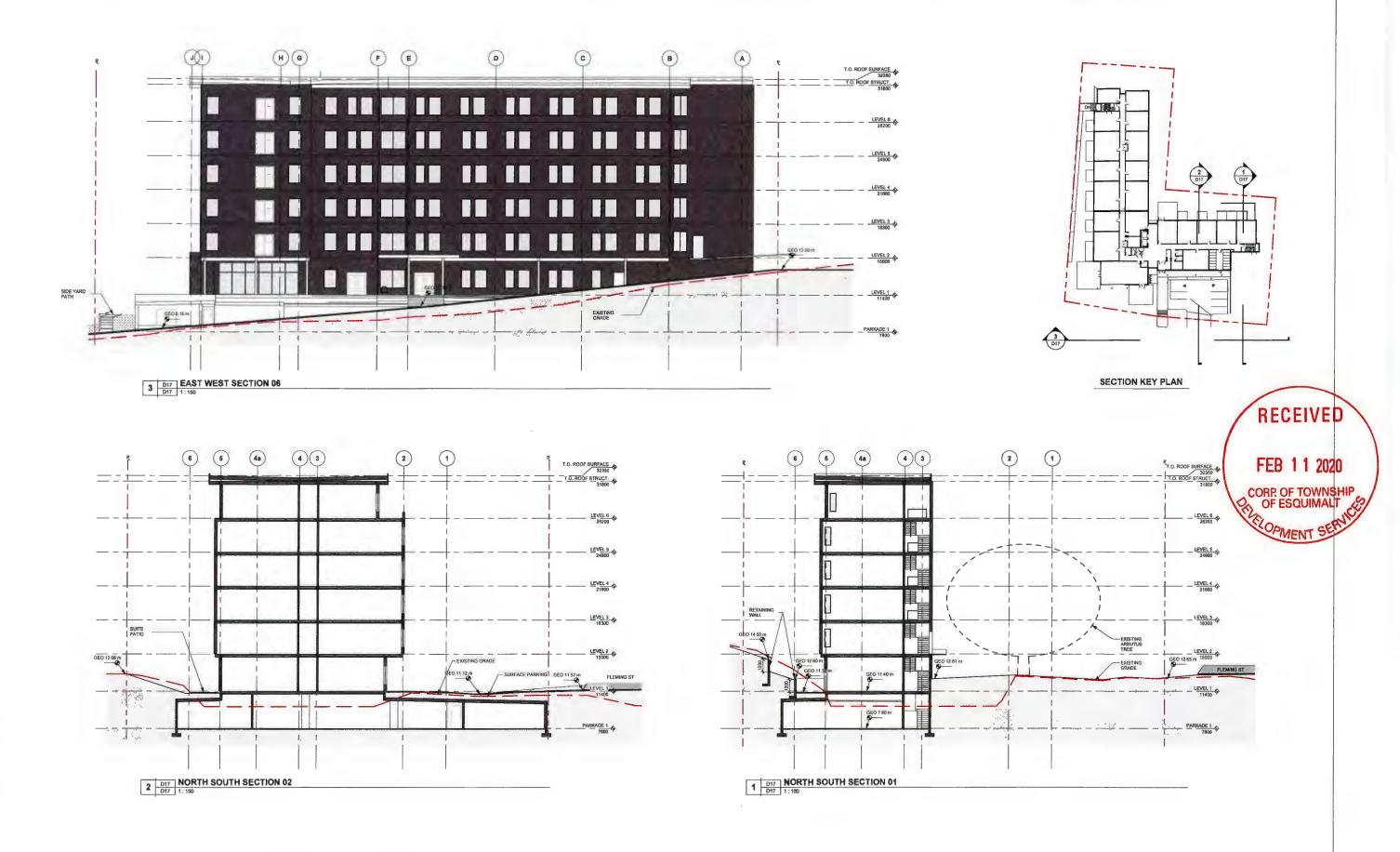






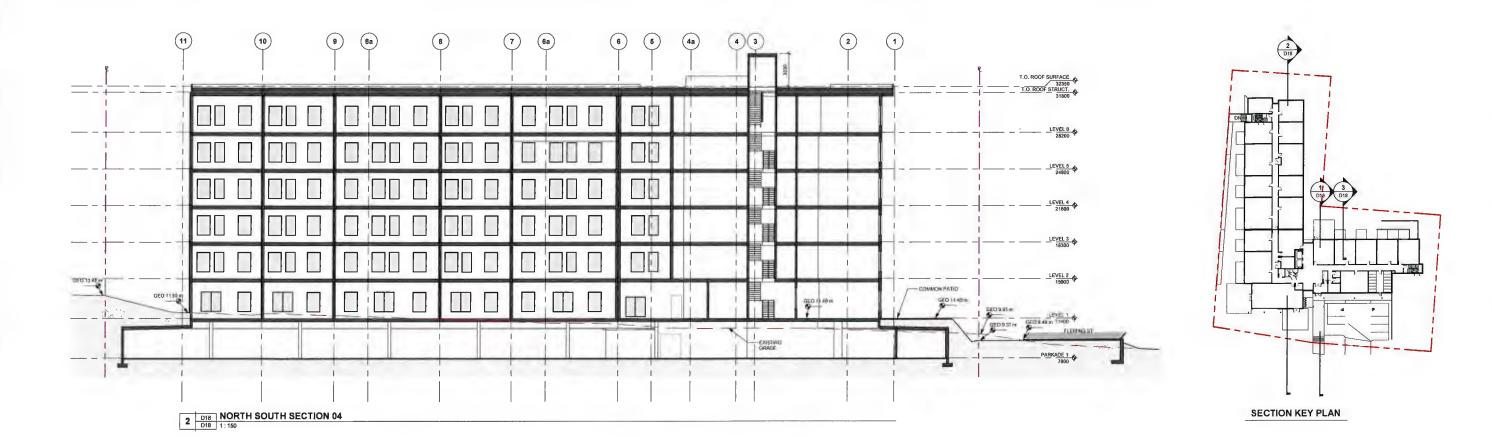


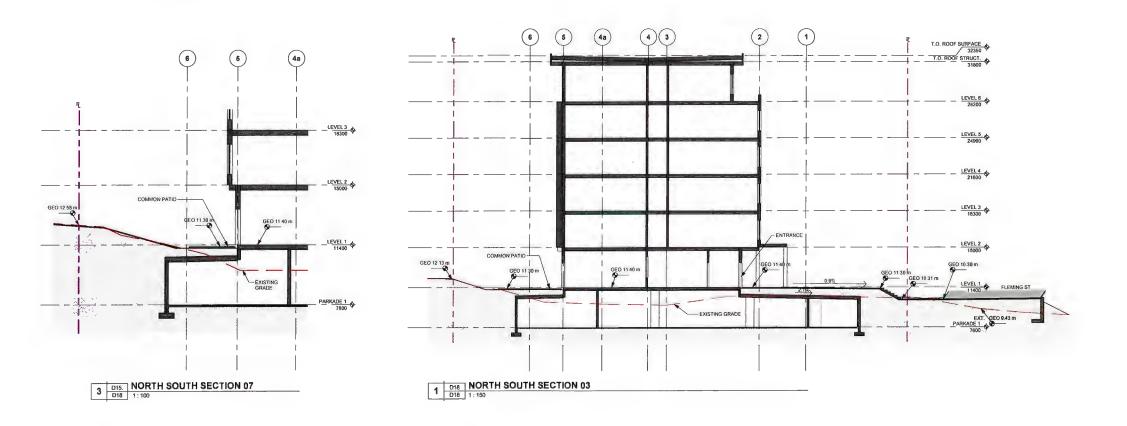








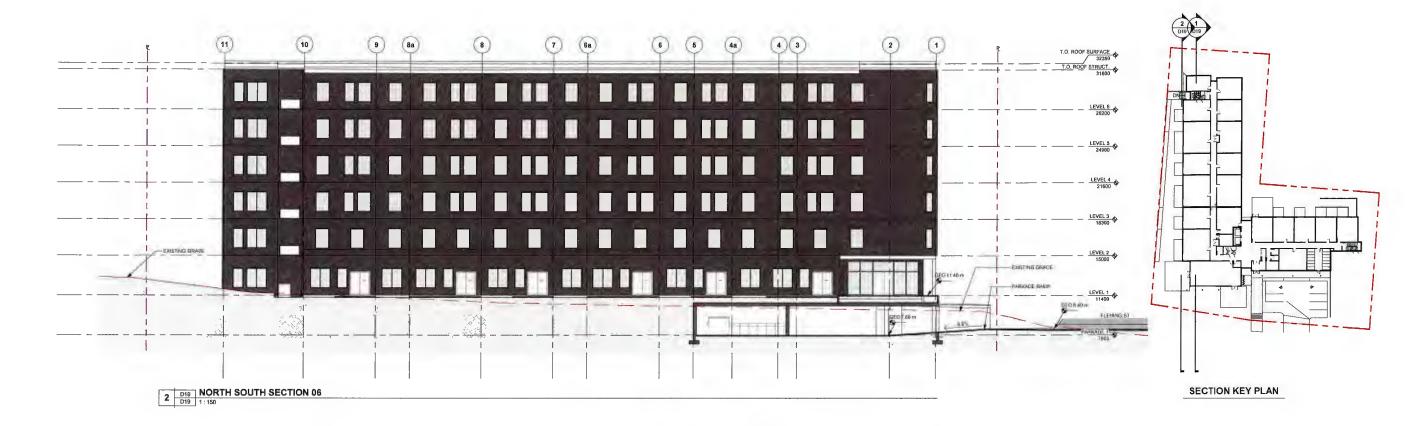


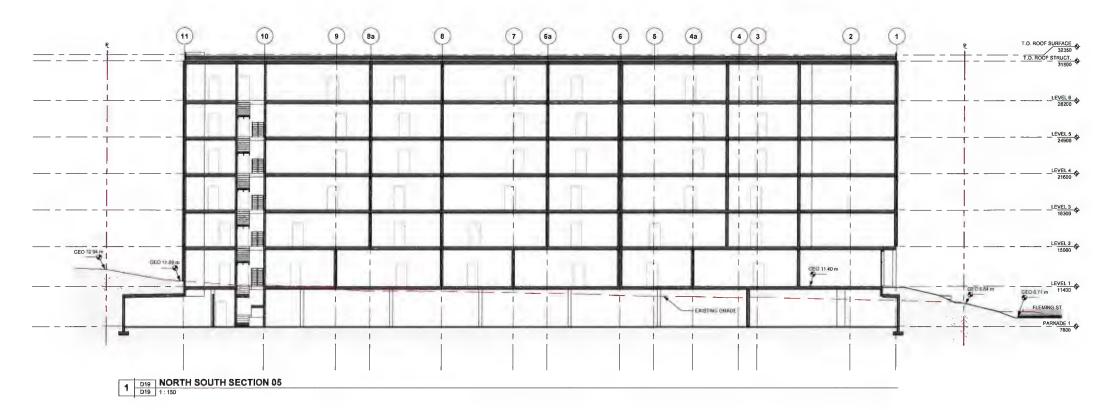








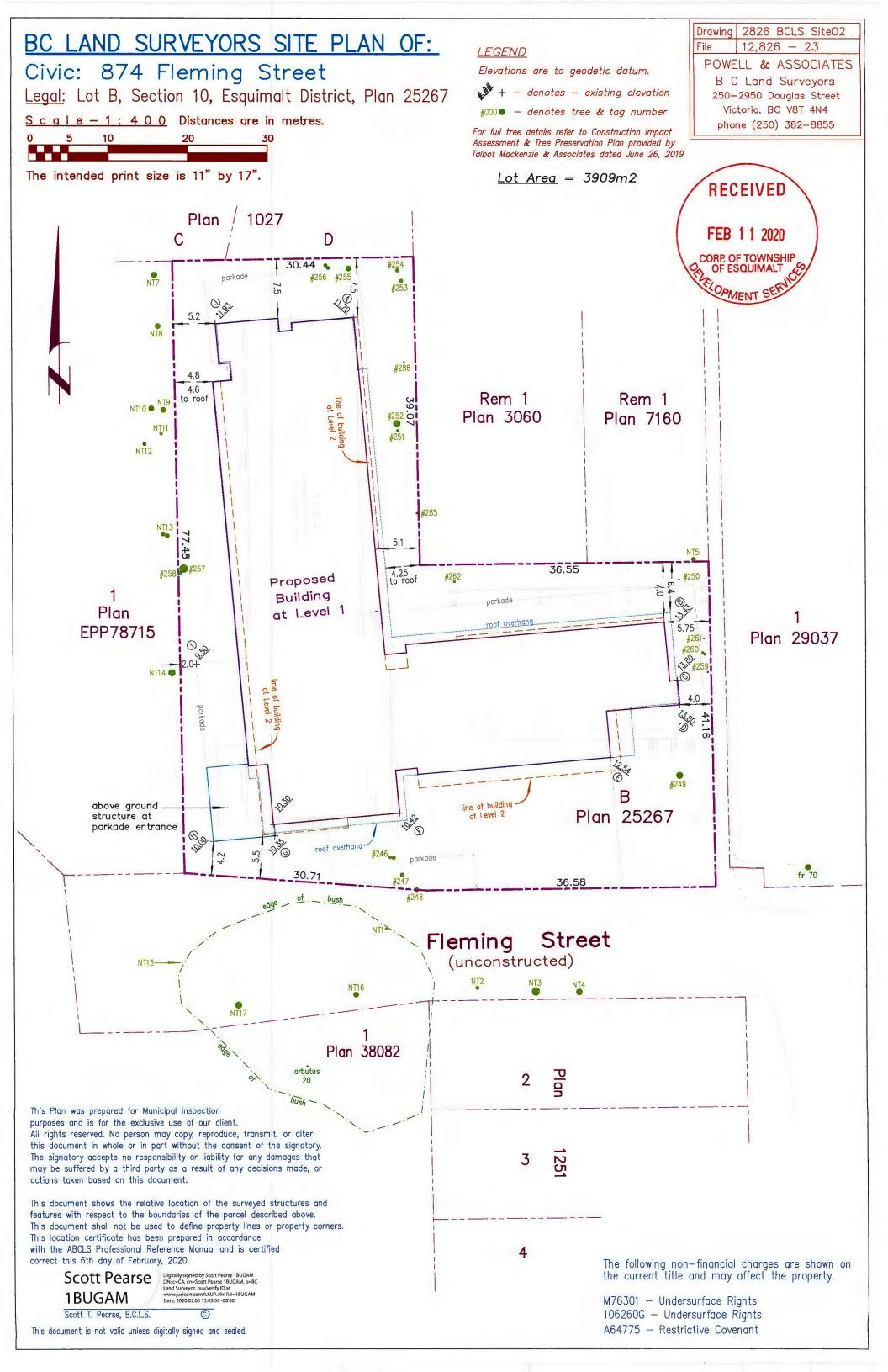














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RECEIVED FEB 1 1 2020 CORP. OF TOWNSHIP

LETOPMENT SERV

C. Feb 10, '20 Rezoning Submission Revisions B. Oct 22, '19 Revised Rezoning Submission A. Aug 19, '19 Rezoning Submission

LADR LANDSCAPE ARCHITECTS

#3-864 Queens Ave. Victoria B.C. V8T 1M5 Phone: (250) 598-0105 Fax: (250) 412-0696

of 1 Oct 22, 2019