

THE CORPORATION OF THE DISTRICT OF OAK BAY

BYLAW NO. 4625

A Bylaw to authorize a Heritage Revitalization Agreement for
2176 Windsor Road

WHEREAS a local government may enter into a heritage revitalization agreement with the owner of property which Council deems to be of heritage value pursuant to Section 966 of the *Local Government Act*; and

WHEREAS the Municipal Council of The Corporation of the District of Oak Bay is desirous of entering into a Heritage Revitalization Agreement with Charles Gordon Blackhall for the property known as 2176 Windsor Road; and

THEREFORE the Municipal Council of The Corporation of the District of Oak Bay in open meeting assembled enacts as follows:

- 1 The Corporation of the District of Oak Bay is authorized to enter into a Heritage Revitalization Agreement with Charles Gordon Blackhall for the property known as Lot A, (DD 385125I) Block 2, Section 23, Victoria District, Plan 1091 (2176 Windsor Road), substantially in the form attached to this Bylaw as Schedule "A".
- 2 The Mayor and Municipal Clerk are authorized to do all things and acts necessary to execute the said Heritage Revitalization Agreement and to affix the seal of the District of Oak Bay thereto.
- 3 This Bylaw may be cited as the *2176 Windsor Road Heritage Revitalization Agreement Authorization Bylaw, 2014*.

READ a first time by the Municipal Council on August 18, 2014

READ a second time by the Municipal Council on August 18, 2014

PUBLIC HEARING held on

READ a third time by Municipal Council on

ADOPTED AND FINALLY PASSED by the Municipal Council on

Mayor

Municipal Clerk

Sealed with the Seal of The Corporation
of the District of Oak Bay

SCHEDULE "A" to Heritage Revitalization Agreement Bylaw No. 4625

**HERITAGE REVITALIZATION AGREEMENT
(Pursuant to section 966 of the *Local Government Act*)
2176 WINDSOR ROAD**

THIS AGREEMENT made the _____ day of _____, 2014

BETWEEN: Charles Gordon Blackhall
2176 Windsor Road
Victoria, BC V8S 3C6

(the "**Owner**")

OF THE FIRST PART

AND:

The Corporation of the District of Oak Bay
2167 Oak Bay Avenue
Victoria, BC V8R 1G2

(the "**District**")

OF THE SECOND PART

WHEREAS:

- A. A local government may, by bylaw, enter into a heritage revitalization agreement with the owner of heritage property pursuant to section 966 of the *Local Government Act*;
- B. The Owner is the registered owner of that parcel of land, lying and being in the Municipality of Oak Bay, in the Province of British Columbia, and more particularly known and described as:
Legal Description: Lot A (DD385125I), Block 2, Section 23, Victoria District, Plan 1091
Parcel Identifier: 008-034-524
Civic Address: 2176 Windsor Road
(the "**Lands**");
- C. The Lands are zoned RS-5 (One Family Residential Use);
- D. Situate on the Lands is a dwelling constructed in or about 1912 (the "**Existing Dwelling**"), which both the Owner and the District agree has significant heritage value that should be preserved;
- E. The Owner wishes to subdivide the Lands into two parcels (the "**Subdivision**"), labelled as Lot 1 ("**Lot 1**") and Lot 2 ("**Lot 2**") on a plan of proposed subdivision

prepared by, Bradley W. Cunnin, British Columbia Land Surveyor, dated November 10th, 2013, a reduced photocopy of which is attached as Appendix "1" hereto (the "Plan");

- F. The Owner wishes to retain the Existing Dwelling on Lot 2 and continue to use the same as a single family residence, and to construct a new residential dwelling on Lot 1;
- G. Section 966 of the *Local Government Act* authorizes a local government to enter into a Heritage Revitalization Agreement with the owner of heritage property, and to allow variations of, and supplements to, the provisions of a bylaw or permit issued under Part 26 or Part 27 of the *Local Government Act*;
- H. The District's Official Community Plan states that the District may consider the use of a Heritage Revitalization Agreement, "where, after due process, the District and the owner of a significant heritage property agree on changes to the use or density regulations in return for guarantees as to owner occupancy, preservation, upgrading and ongoing conservation and maintenance"; and
- I. The Owner and the District wish to preserve the Existing Dwelling and to provide for its preservation, rehabilitation, restoration and maintenance in accordance with the terms of this Agreement, and have voluntarily agreed to enter into this Agreement setting out the terms and conditions by which the heritage value of the Existing Dwelling is to be preserved and protected, in return for specified variances to District bylaws.

NOW THEREFORE this Agreement witnesses that in consideration of the mutual promises exchanged in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which both parties acknowledge), the Owner and the District each covenant with the other pursuant to section 966 of the *Local Government Act*, as follows:

1.0 DEFINITIONS

- 1.1 In this Agreement the following words have the following meanings:

"**Owner**" includes a person who acquires an interest in the Lands and is thereby bound by this Agreement, as referred to in sections.

"**preservation**", "**rehabilitation**", "**restoration**" and "**maintenance**" have the meanings defined in the Standards and Guidelines.

"**Standards and Guidelines**" means the Parks Canada *Standards and Guidelines for the Conservation of Historic Places in Canada (2010)*.

2.0 REDEVELOPMENT OF THE LANDS

- 2.1 The Owner covenants and agrees with the District that it shall develop the Lands strictly in accordance with the terms of this Agreement, and as required under the terms of any permits or approvals issued by the District respecting the development of or construction upon the Lands.

3.0 NO INTERFERENCE WITH OR DEROGATION FROM AUTHORITY OF SUBDIVISION APPROVING OFFICER

3.1 This Agreement represents a necessary but not sufficient step towards approval of the Subdivision and in no way fetters the exercise of the judgement or authority of the Approving Officer for the District (the "**Approving Officer**") under the *Land Title Act*, and in particular but without reducing generality does not exempt the Owner in whole or in part from off-site servicing requirements and costs, or any other requirements imposed by the Approving Officer or the District as part of the subdivision review and approval process.

4.0 OBLIGATION OF OWNER TO RESTORE AND CONSERVE EXISTING DWELLING

4.1 The parties agree that the Existing Dwelling has heritage value deserving of protection and conservation, and the Owner specifically agrees that the Existing Dwelling shall not be demolished in whole or in part, moved or removed, structurally altered, altered as to its façade or any other exterior element, or added to, except in accordance with the Heritage Conservation Plan prepared by Don Luxton and Associates Inc., completed April 2014 and attached hereto as Appendix "2" (the "**Conservation Plan**")

4.2 The Owner covenants and agrees that it shall preserve, rehabilitate, restore and maintain the Existing Dwelling in accordance with the Conservation Plan (the "**Work**").

4.3 Prior to commencement of the Work and the Code Upgrades, as defined in section 11.1, the Owner shall obtain from the District all necessary permits and licences from the District, including where necessary, and without limitation, a heritage alteration permit.

4.4 The Work and the Code Upgrades shall be done at the Owner's sole expense in accordance with the Conservation Plan, and with generally accepted engineering, architectural, and heritage conservation practices. If any conflict or ambiguity arises in the interpretation of the Conservation Plan, the parties agree that the conflict or ambiguity shall be resolved in accordance with the *Standards and Guidelines*.

4.5 The Owner shall, at its sole expense, engage a member of the Architectural Institute of British Columbia or the Association of Professional Engineers and Geoscientists of British Columbia with membership in the BCAHP or CAHP (the "**Registered Professional**") to oversee the Work and to perform the duties set out in this Agreement.

4.6 The Owner shall:

(a) prior to commencement of the Work, provide to the District an executed and sealed Confirmation of Commitment in the form attached hereto as Appendix "3";

(b) erect on the Lands and keep erected throughout the course of the Work a sign of sufficient size and visibility to effectively notify contractors and tradespersons entering onto the Lands that the Work involves protected heritage property and is being carried out for heritage conservation purposes;

(c) obtain the District's approval for any changes to the Work, including any amended permits that may be required;

4.7 The Registered Professional shall:

- a) upon substantial completion of the Work, provide to the District an executed and sealed Certification of Compliance in the form attached hereto as Appendix "4"; and
- b) notify the District within one business day if the Registered Professional's engagement by the Owners is terminated for any reason.

5.0 TIMING OF WORK

5.1 The Owner shall commence and complete all actions required for completion of the Work and the Code Upgrades, as set out in the Conservation Plan and in this Agreement, within one year following adoption of the Bylaw authorizing this Agreement.

6.0 HERITAGE DESIGNATION

6.1 The Owner hereby irrevocably consents and agrees to the designation of the Existing Dwelling as a protected heritage property in accordance with section 966 of the *Local Government Act*, and pursuant to 2176 Windsor Road Heritage Revitalization Agreement Bylaw No. 4623, and releases the District from any obligation to compensate the Owner in any form for any reduction in the market value of the Lands or any portion of the Lands that may result from the designation.

7.0 CONFORMITY WITH DISTRICT BYLAWS

7.1 Except with respect to a provision of a bylaw that is expressly varied by this Agreement, and only to the extent of the authorized variance, nothing contained or implied herein shall prejudice or affect the rights and powers of the District in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the parties, and in particular but without reducing generality, nothing in this Agreement varies, waives or derogates from any provision of Bylaw No. 4247, Building and Plumbing Bylaw, 2005, as amended, as it applies to the Lands, the Existing Dwelling and the Work and Code Upgrades described in this Agreement and in the Conservation Plan.

8.0 APPLICATION OF THIS AGREEMENT

8.1 Unless otherwise stated, the terms and conditions of this Agreement respecting the Existing Dwelling apply only to the structure and exterior of the Existing Dwelling, including, without limitation, the foundation, walls, roof, and all exterior doors, windows and architectural ornamentation.

9.0 SPECIAL PERMIT REQUIRED FOR ALTERATIONS

9.1 None of the types of actions, Work, additions or alterations listed in this Agreement or in the Conservation Plan shall be taken, commenced or carried out with respect to the Existing Dwelling unless the District has first issued a heritage alteration permit (or other lawful instrument of approval for buildings protected by way of Heritage Revitalization Agreement) authorizing the same in accordance with the applicable provisions of the *Local Government Act*, which permit or approval the

District, subject to the said statutory provisions, may issue or withhold in its discretion.

- 9.2 Following completion of the Work in accordance with this Agreement, the Owner shall not alter the heritage character or the exterior appearance of the Existing Dwelling, except as permitted by a heritage alteration permit issued by the District.

10.0 BYLAW VARIANCES

- 10.1 The following provisions of District Bylaws are varied to the extent required to eliminate the non-compliance with such provisions that would otherwise preclude approval of the Subdivision:

- (a) Bylaw No. 3531, *Zoning Bylaw, 1986*, as Amended (the "**Zoning Bylaw**")
- (i) Despite Schedule "A" of the Zoning Bylaw, the defined "lot width" of Lot 1 may be 14.63 metres (minimum under Zoning Bylaw is 15.25 metres).
 - (ii) Despite Schedule "A" of the Zoning Bylaw, the defined "lot width" of Lot 2 may be 14.66 metres (minimum under Zoning Bylaw is 15.25 metres).
 - (iii) Despite Schedule "A" of the Zoning Bylaw, the frontage of Lot 1 may be 14.63 metres (minimum under Zoning Bylaw is 15.25 metres).
 - (iv) Despite Schedule "A" of the Zoning Bylaw, the frontage of Lot 2 may be 14.66 metres (minimum under Zoning Bylaw is 15.25 metres).
 - (v) Despite Section 6.5.4(2)(e) of the Zoning Bylaw, the total of the side lot line setbacks of the Existing Dwelling from the interior side lot lines on Lot 2 may be 2.69 metres (minimum under Zoning Bylaw is 4.57 metres).
 - (vi) Despite Section 6.5.4(3)(a) of the Zoning Bylaw, the defined "building height" of the Existing Dwelling on Lot 2 may be 7.62 metres (maximum under Zoning Bylaw is 6.55 metres).
 - (vii) Despite Section 6.5.4(3)(b) of the Zoning Bylaw, the defined "occupiable height" of the Existing Dwelling on Lot 2 may be 5.1 metres (maximum under Zoning Bylaw is 4.1 metres).
 - (viii) Despite Section 6.5.4(3)(c) of the Zoning Bylaw, the defined "roof height" of the Existing Dwelling on Lot 2 may be 8.33 metres (maximum under Zoning Bylaw is 8.19 metres).
 - (ix) Despite Section 6.5.4(4) of the Zoning Bylaw, the defined "lot coverage" of the Existing Dwelling on Lot 2 may be 37% (maximum under Zoning Bylaw is 25%).
 - (x) Despite Section 6.5.4(6)(a) of the Zoning Bylaw, the Existing Dwelling may contain a defined "gross floor area" of 440 square metres (maximum under Zoning Bylaw is 240 square metres), of

which the entire amount may be at a level higher than 0.8 metres below grade (maximum under Zoning Bylaw is 240 square metres).

- (xi) Despite Section 6.5.4(6)(a) of the Zoning Bylaw, the Existing Dwelling may contain a defined "gross floor area" of 440 square metres (maximum under Zoning Bylaw is 360 square metres), both in the context of the development shown in the Plans and Specifications.
 - (xii) Despite Section 6.5.4(11) of the Zoning Bylaw, the south interior side lot line setback for the second storey of the Existing Dwelling may be 1.53 metres (minimum under Zoning Bylaw is 3.0 metres).
 - (xiii) Despite Section 6.5.1(1) of the Zoning Bylaw, the minimum lot area of Lot 1 and Lot 2 may be 535 square metres (minimum under Zoning Bylaw is 558 square metres).
- (b) Bylaw No. 3578, *Subdivision and Development Bylaw, 1987*, as Amended (the "**Subdivision and Development Bylaw**")
- (i) Despite Section 5 of the Subdivision and Development Bylaw, the lot widths of Lots 1 and Lot 2 may be less than the minimum set out in the Zoning Bylaw.
 - (ii) Despite Section 4 of the Subdivision and Development Bylaw, the lot areas of Lot 1 and Lot 2 may be less than the minimum set out in the Zoning Bylaw.
 - (iii) Despite Section 6(1) of the Subdivision and Development Bylaw, the frontage of Lots 1 and Lot 2 may be less than the minimum set out in the Zoning Bylaw.
 - (iv) Despite Section 8 of the Subdivision and Development Bylaw, the Subdivision may create the Zoning Bylaw non-conformities described in this Agreement.
- (c) Bylaw No. 3540, *Parking Facilities Bylaw, 1986*, as Amended (the "**Parking Bylaw**")
- (i) Despite Sections 4.1 and 4.3.1 of the Parking Bylaw, and despite Section A.1 of Schedule "A" of the Parking Bylaw, the number of parking stalls on Lot 2 are two but uncovered, which is contrary to the Parking Bylaw.

11.0 CODE COMPLIANCE UPGRADES

11.1 In addition to the work required by any applicable enactment, the Conservation Plan and pursuant to this Agreement, the alteration and restoration of the Existing Dwelling must include completion of the following:

- (a) Upgrading the entire Existing Dwelling to comply substantially with all applicable requirements of the British Columbia Building Code and British Columbia Fire Code as required by the Director of Building and Planning;

- (b) installation of anchorage of the entire structure of the Existing Dwelling to the foundation as shown on plans prepared and sealed by a professional structural engineer and for which a permit has been obtained from the District.

(collectively, the "Code Upgrades")

12.0 NO SUBDIVISION PRIOR TO COMPLETION OF CODE UPGRADES AND WORK

- 12.1 The Owner agrees to complete all of the Work depicted in Conservation Plan and all of the Code Upgrades prior to submitting to the Approving Officer an application for final approval of the Subdivision, or any other subdivision of the Lands under the *Land Title Act*. [the immediate requirement in the Conservation Plan is a window replacement at 5.6.1 in the Plan and possibly some shingle repair]
- 12.2 Subsection 12.1 notwithstanding, the Owner may apply for final approval of the Subdivision prior to the addition of a new deck on the north and west elevations of the Existing Dwelling. [not in the Conservation Plan]

13.0 AGREEMENT TERMINATES IF SUBDIVISION NOT APPROVED

- 13.1 This Agreement shall immediately terminate and cease to have any force or effect if the Subdivision has not been approved under the *Land Title Act* within two (2) years after the date hereof, in which case all of the statutory and common law relative to the pre-existing nonconforming use of the Existing Dwelling and the Lands shall apply.

14.0 BUILDING MAINTENANCE STANDARDS

- 14.1 At all times following substantial completion of the Work and pursuant to the Conservation Plan, the Owner shall:
 - (a) maintain the exterior of the Existing Dwelling so as to prevent deterioration due to weather, rot or insects;
 - (b) keep the exterior of the Existing Dwelling free from loose, rotted or broken materials and objects;
 - (c) keep all siding, window frames, railings, decks, stairs and other wood or metal materials on the exterior of the Existing Dwelling neatly finished and effectively protected from the elements by paint or stain;
 - (d) maintain all cornices, belt courses, corbels, trim, wall facings, and similar architectural features of the Existing Dwelling in good repair and safe condition;
 - (e) maintain all roofs, including fascia boards, soffits, cornices and flashings, of the Existing Dwelling in a water-tight condition;
 - (f) maintain all fences, barriers and retaining walls in good repair and in sound structural condition; and

- (g) keep Lots 1 and 2 free from rubbish and debris, including any vehicle, trailer, boat or other object which is in a wrecked or derelict condition.

15.0 DAMAGE OR DESTRUCTION BY FIRE OR OTHER PERILS

- 15.1 In the event that the Existing Dwelling is damaged or destroyed to the extent of less than or equal to 75% of its value above its foundations, as determined by the Director of Building and Planning for the District, the Owner shall unless otherwise permitted in writing by the District, repair or reconstruct the Existing Dwelling subject to the issuance by the District of a heritage alteration permit or other lawful instrument of approval for buildings protected by way of Heritage Revitalization Agreement, following which the Owner shall forthwith commence the repairs or reconstruction and complete the same within one year from the date of approval.
- 15.2 The District shall act reasonably with respect to a request from the Owner not to repair or reconstruct in the circumstances described in section 15.1. In the event that the District grants permission not to repair or reconstruct, all use, density of use, and development of Lot 2 shall thenceforth be in accordance with the Zoning Bylaw and all other applicable bylaws of the District.
- 15.3 In the event that the Existing Dwelling is damaged or destroyed to the extent of more than 75% of its value above its foundations, as determined by the Director of Building and Planning for the District, the Owner may elect not to reconstruct the Existing Dwelling, in which case all use, density of use, and development of Lot 2 shall thenceforth be in accordance with the Zoning Bylaw and all other applicable bylaws of the District. If the Owner does elect to reconstruct the Existing Dwelling, the reconstruction shall be subject to the issuance by the District of a heritage alteration permit or other lawful instrument of approval for buildings protected by way of Heritage Revitalization Agreement, following which the Owner shall forthwith commence the reconstruction and complete the same within one year from the date of approval.
- 15.4
 - (a) Where the Owner disagrees with a determination by the Director of Building and Planning for the District under either of sections 15.1 or 15.3, the Owner may at their cost and within 30 days of receipt of written notice of such determination submit to the District a written appraisal of the extent of damage above the foundation prepared by an insurance adjuster retained by the carrier of the current property insurance policy for the Existing Dwelling and licensed to practice in British Columbia under the *Financial Institutions Act*.
 - (b) The District shall within 30 days of receipt of the appraisal prepared by the said insurance adjuster notify the Owner in writing as to whether or not it accepts the findings of the appraisal.
 - (c) In the event that the District notifies the Owner that it does not accept the findings of the appraisal, the matter of the extent of the damage above the foundation shall be determined by binding arbitration by a single arbitrator under the *Arbitration Act*.

16.0 AGREEMENT TO RESTRICT DEVELOPMENT OF LOT 1

- 16.1 Lot 1 shall not be built upon or excavated except in accordance with this Agreement.

- 16.2 No plan creating the Subdivision shall be registered except in conjunction with the registration of a covenant under section 219 of the *Land Title Act* in favour of the District, which covenant shall provide, *inter alia*, the following:
- (a) that a dwelling erected, constructed, placed or maintained on Lot 1 (the "Lot 1 Dwelling") shall contain no more than two (2) storeys of living space, with the floor area of the second storey, if any, not to exceed seventy percent (70%) of the floor area of the first storey;
 - (b) that the height of the floor of the second storey of the Lot 1 Dwelling shall not exceed 3.57 metres above grade; and
 - (c) that the second storey of the Lot 1 Dwelling shall be contained within a pitched roof assembly sloping at an angle not exceeding 50 degrees to the horizontal, with the height above grade to the highest part of the roof, excluding chimney, not to exceed 7.62 metres.

The terms "grade" and "storey" used in this section 16.2 shall have the meanings as set out in the Zoning Bylaw.

17.0 NOTICE TO BE REGISTERED IN LAND TITLE OFFICE

- 17.1 Notice of this Agreement will be registered in the Land Title Office by the District at the cost of the Owner in accordance with section 967 of the *Local Government Act*, and this Agreement is binding on the parties to this Agreement as well as all persons who acquire an interest in the Lands after registration of this Notice.

18.0 NOTICE OF DEFAULT

- 18.1 In the event that the Owner is in breach of or in default with respect to any term of this Agreement, the District may:
- (a) by registered mail; or
 - (b) by hand delivery,

to the address of the Owner as shown on the most recent revised assessment roll within the meaning of the *Assessment Act*, give the Owner written notice of the breach or default and the Owner shall remedy the same within thirty (30) days of the date of receipt of the notice, or within such longer time as the District may in its discretion specify in the notice or in writing upon subsequent application by the Owner. If the Owner fails or neglects to remedy the breach or default, without derogating from the ability of the District to seek and obtain from a court an order for specific performance, or from any other contract enforcement option, the District may by bylaw cancel this Agreement and the Owner shall for all purposes, including the satisfaction of any requirement set out in the *Local Government Act*, be deemed to have consented to such cancellation and shall ensure that all use and density of use of Lot 1 and the Existing Dwelling shall thenceforth be in accordance with the *Zoning Bylaw* and all other applicable bylaws of the District.

- 18.2 A notice under section 18.1 shall be deemed to have been received by the Owner 72 hours after the time of mailing or, if hand-delivered, upon the date of delivery.

19.0 PROPERTY INSURANCE

19.1 The Owner agrees to maintain at all times for the Existing Dwelling, at full replacement value, insurance against all risks of physical loss or damage from all insurable perils including but not limited to fire, earthquake, water escape and flooding.

20.0 NO WAIVER UNLESS EXPRESSLY AGREED

20.1 Except as specifically agreed in writing, no action or failure to act by the District shall constitute a waiver of any right or duty afforded it under this Agreement, nor shall any such action or failure to act constitute an approval, waiver or acquiescence in or of any breach or default hereunder.

21.0 ENFORCEMENT BY DISTRICT

21.1 The parties agree that the enforcement of this Agreement shall be entirely within the discretion of the District and that the execution and registration of this Agreement shall not be interpreted as creating any duty on the part of the District to the Owner or to any other person to enforce any provision or the breach of any provision of this Agreement.

22.0 INDEMNIFICATION AND RELEASE

22.1 The Owner hereby releases, absolves and forever discharges the District, its officers and employees, from any and all claims, causes of action, actions, suits, proceedings and demands of any nature whatsoever which the Owner has or may have for any loss, damage, death or injury sustained by the Owner, arising directly or indirectly out of this Agreement.

22.2 The Owner shall indemnify and save harmless the District, its officers and employees, from and against all claims, causes of action, actions, suits, proceedings and demands of any nature whatsoever and by whomever made, brought or prosecuted, directly or indirectly arising out of or related to, occasioned by or attributed to a breach of any provision of this Agreement to be performed by the Owner, her agents or contractors.

23.0 NO PARTNERSHIP OR JOINT VENTURE

23.1 The parties agree that nothing contained herein creates a relation between the parties of partnership, joint venture or agency.

24.0 PERSONAL LIABILITY LIMITED TO PERIOD OF OWNERSHIP

24.1 The Owner covenants and agrees that for them, their heirs, administrators, executors, successors and assigns, that she will at all times perform and observe the requirements and restrictions hereinbefore set out but that with the exception of sections 22.1 and 22.2 they shall be binding on the Owner as personal covenants only during the period of his ownership of any interest in the Land.

25.0 GENERAL

25.1 Time shall be the essence of this Agreement.

- 25.2 The Owner shall execute and deliver or cause to be executed and delivered all such further agreements, documents and instruments and to do and perform or cause to be done and performed all such acts and things as may be required in the opinion of the District, acting reasonably, to give full effect to the intent of this Agreement.
- 25.3 The Owners shall not assign their interest in this Agreement without the consent in writing of the District.
- 25.4 This Agreement shall enure to the benefit of and be binding upon the District and its successors, trustees and assigns, and this Agreement shall enure to the benefit of and be binding upon the Owner and successors, trustees and permitted assigns and all parties claiming through them, and this Agreement shall charge and run with the Lands and enure to the benefit of and be binding upon the owners from time to time of the Lands and their respective heirs, executors, administrators, trustees and successors and all parties claiming through them.
- 25.5 It is mutually understood and agreed between the parties that neither the Owner nor the District has made any representations, covenants, warranties, promises or agreements expressed or implied, other than those expressly contained in this Agreement.
- 25.6 If any portion of this Agreement is declared invalid by a court of competent jurisdiction, the remainder, provided the invalid portion is not found by the court to be an integral part thereof, shall continue in full force and effect and be construed as if the Agreement had been executed without the invalid portion.
- 25.7 Wherever the expressions "Owner" and "District", and the masculine gender, are used herein, the same shall be construed to mean the plural, feminine or body corporate or politic where the context or the parties so require, and the rest of the sentence shall be construed as if the grammatical and terminological changes thereby rendered necessary had been made.
- 25.8 Any bylaw or statute referred to herein is a reference to a bylaw or statute of the District or the Province of British Columbia, respectively, as amended, revised, consolidated or replaced from time to time.
- 25.9 The paragraph or section headings contained in this Agreement are for convenience only and do not purport to define, limit, or extend the scope or intent of the language of the paragraphs to which they pertain.
- 25.10 This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date it is made.
- 25.11 No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.
- 25.12 Each of the parties will do, execute, and deliver, or cause to be done, executed, and delivered all such further acts, documents and things as may be reasonably required from time to time to give effect to this Agreement.
- 25.13 This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

25.14 This Agreement may be amended from time to time upon terms and conditions mutually acceptable to the District and the Owner only if the amendments are in writing and executed by the parties hereto, and only if the amendments are authorized by bylaw of the District.

26.0 PRIORITY

26.1 The CIBC Mortgages Inc, the registered holder of a charge by way of Mortgage and Assignment of Rents against the Lands and registered under Nos. CA1500860 (collectively the "**Charge**") in the Land Title Office at Victoria, British Columbia, for and in consideration of the sum of One (\$1.00) Dollar paid by the District to the said Chargeholder (the receipt whereof is hereby acknowledged), agrees with the District that upon filing of a Notice with the Land Title Office that the Lands are subject to this Agreement, pursuant to section 905(5) of the *Local Government Act*, this Agreement shall be an encumbrance upon the Lands in priority to the said charge in the same manner and to the same effect as if it had been dated and registered prior to the said Charge.

26.2 Canadian Imperial Bank OF Commerce, the registered holder of a charge by way of Mortgage and Assignment of Rents against the Lands and registered under Nos. CA2202046 (collectively the "**Charge**") in the Land Title Office at Victoria, British Columbia, for and in consideration of the sum of One (\$1.00) Dollar paid by the District to the said Chargeholder (the receipt whereof is hereby acknowledged), agrees with the District that upon filing of a Notice with the Land Title Office that the Lands are subject to this Agreement, pursuant to section 905(5) of the *Local Government Act*, this Agreement shall be an encumbrance upon the Lands in priority to the said charge in the same manner and to the same effect as if it had been dated and registered prior to the said Charge.

IN WITNESS WHEREOF the parties have executed this Agreement as of the day, month and year first above written.

SIGNED BY THE OWNERS,)
in the presence of:)

_____)
Witness (Signature))

_____)
Witness (Print Name))

_____)
Charles Gordon Blackhall

_____)
Occupation of Witness)

_____)
Address of Witness)

The Corporate Seal of THE CORPORATION)
OF THE DISTRICT OF OAK BAY was hereunto)
affixed in the presence of:)

_____)
Mayor)

c/s

_____)
Municipal Clerk)

CIBC Mortgages Inc.
by its authorized signatories:

Print Name:

Signature:

Canadian Imperial Bank of Commerce
by its authorized signatories:

Print Name:

Signature:

Appendix 1
SUBDIVISION PLAN

Oak Bay



the Municipality of Oak Bay
(Elev. = 13.223m)

ZONING	Lot Area	Lot Width
RS5	558 m ²	15.25

PID No.

008-034-524

marked x,
jutter.

only to scale.
all tree species
to be identified by qualified arborist.

with transformer

with light

(primary)

val

(1)

e

(purpose unknown)

Control Valve

reproduce,
or in part

size

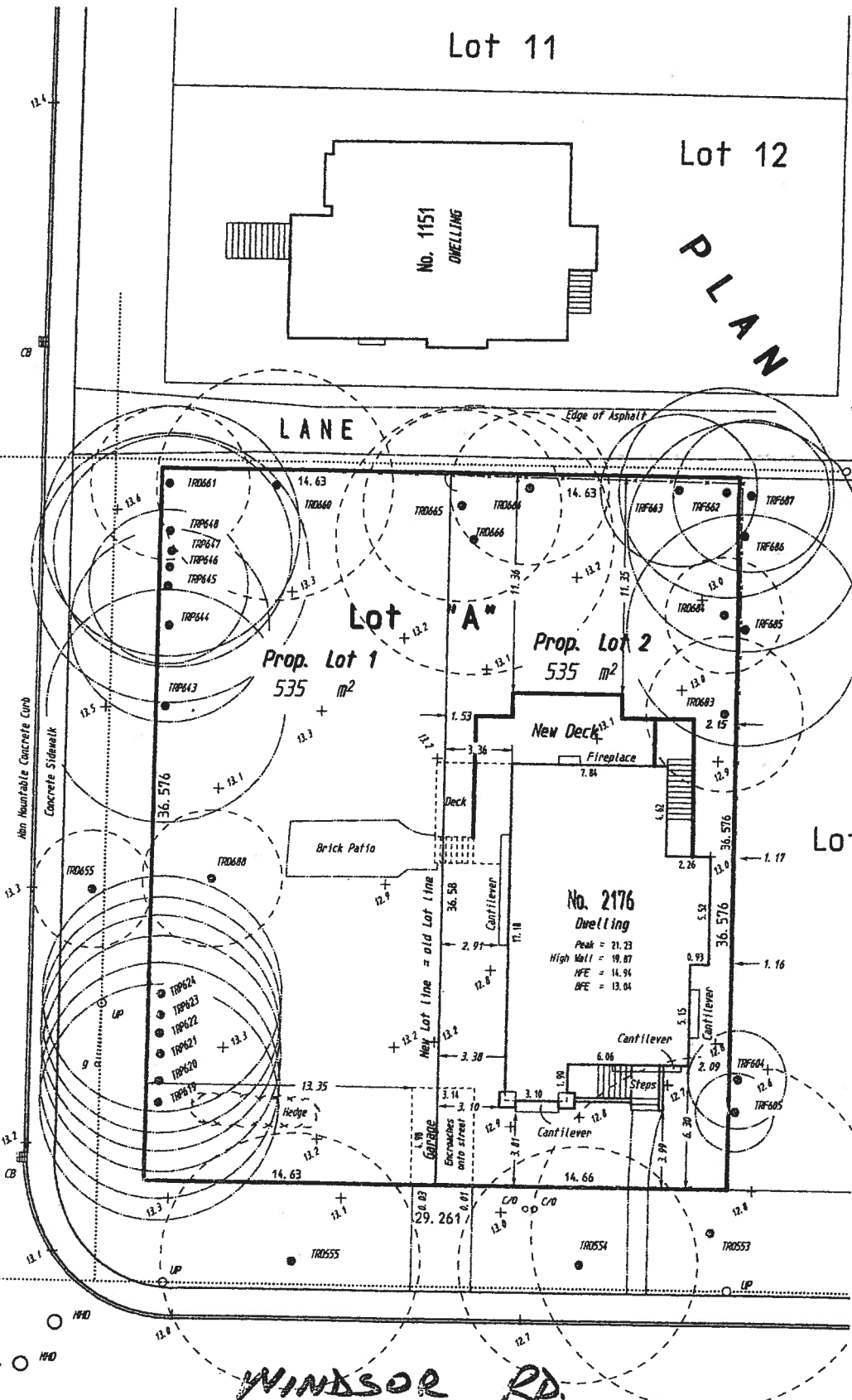
topographic plan,
and does not
show dimensions
of adjacent survey.

suffered
disturbances
to the extent.

17

Note that
as installed
signals,
and any changes
of any
nature.

ROSLYN ROAD



Lot 12
PLAN

LANE

Lot "A"

Prop. Lot 1
535 m²

Prop. Lot 2
535 m²

New Deck

No. 2176
Dwelling

Peak = 21.23
High Wall = 19.87
HFE = 14.94
OFE = 13.04

Brick Patio

Deck

Fireplace

Cantilever

Steps

Cantilever

Cantilever

Cantilever

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Appendix 2

HERITAGE CONSERVATION PLAN BY DON LUXTON

SYMONS RESIDENCE

2176 WINDSOR ROAD, OAK BAY
CONSERVATION PLAN
APRIL 2014



DONALD LUXTON 
AND ASSOCIATES INC

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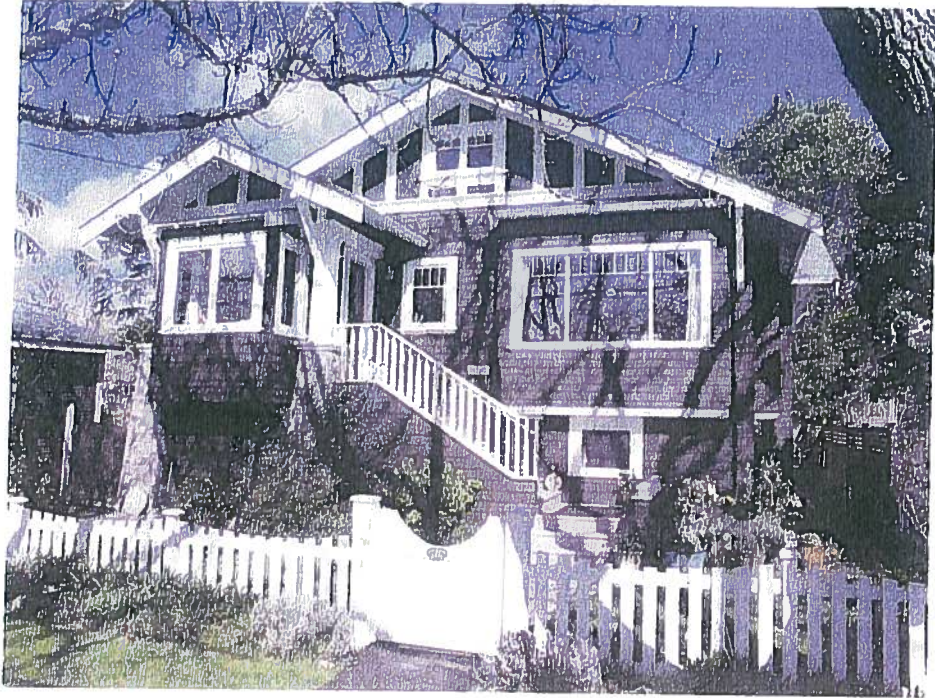


TABLE OF CONTENTS

1. INTRODUCTION	2
2. HISTORIC CONTENTS	4
2.1 <i>Original Owner: Kyrle Charles Symons</i>	9
2.2 <i>Original Builder: Alexander McCrimmon</i>	10
3. (Intentionally Left Blank)	11
4. CONSERVATION GUIDELINES	13
4.1 <i>Standards and Guidelines</i>	13
4.2 <i>Conservation References</i>	14
4.3 <i>General Conservation Strategy</i>	15
4.4 <i>Heritage Equivalencies and Exemptions</i>	16
4.4.1 <i>British Columbia Building Code</i>	17
4.4.2 <i>Energy Efficiency Act</i>	17
5. CONSERVATION RECOMMENDATIONS	
5.1 <i>Site</i>	18
5.2 <i>Overall Form</i>	18
5.3 <i>Foundation</i>	19
5.4 <i>Exterior Walls</i>	23
5.4.1 <i>Shingle Siding</i>	23
5.4.2 <i>Wood Trim</i>	23
5.4.3 <i>Half-Timbering</i>	23
5.5 <i>Granite Piers</i>	24
5.6 <i>Fenestration</i>	25
5.6.1 <i>Windows</i>	25
5.6.2 <i>doors</i>	26
5.7 <i>Roof</i>	27
5.7.1 <i>Chimneys</i>	27
5.8 <i>Exterior Colour Schedule</i>	28
6. MAINTENANCE PLAN	30
6.1 <i>Maintenance Guidelines</i>	30
6.2 <i>Permitting</i>	31
6.3 <i>Routine, Cyclical and Non-Destructive Cleaning</i>	31
6.4 <i>Repairs and Replacement of Deteriorated Materials</i>	31
6.5 <i>Inspections</i>	31
6.6 <i>Information File</i>	32
6.6.1 <i>Log Book</i>	32
6.7 <i>Exterior Maintenance</i>	32
6.7.1 <i>Inspection Checklist</i>	33
6.7.2 <i>Maintenance Program</i>	35
7. RESEARCH SOURCES	37

SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014

1. INTRODUCTION



Symons Residence, 2176 Windsor Road Front Elevation

Subject Property: Symons Residence, Oak Bay
Civic Address: 2176 Windsor Road
Construction Date: 1912
Original Owner: K.C. Symons / St. Michael's School
Original Architect: attributed to Alexander McCrimmon
Original Builder: Alexander McCrimmon
Original Builder (Gym): W.M. Sutton

Located at the southwest corner of Windsor and Roslyn Roads, The Symons Residence is a one-and-one half storey, wood frame, Arts and Crafts-style residence situated on a double lot in south Oak Bay.

The house is noteworthy as the historic location of St. Michael's School, the first private boys' preparatory school in Oak Bay, as well as the home of headmaster and founder Kyrle C. Symons. It is additionally significant for its association with prominent local architect, Francis Rattenbury, who was instrumental in providing the funds for the purchase of this lot and subsequent construction of the schoolhouse and residence for Symons. Rattenbury, whose son was a student at St. Michael's School, had a successful architectural career designing Victoria's Parliament Buildings, esteemed residences, apartments and places of worship. Alex F. McCrimmon, a prolific local builder, was responsible for the

SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014

construction – and possibly design – of the original bungalow and schoolhouse located at 2176 Windsor Road.¹

The house and property are valued as part of Oak Bay's educational and neighbourhood development during the Edwardian-era boom. The Symons Residence has been recognized for its historical significance and architectural character. A Heritage Revitalization Agreement will be negotiated that will conserve the existing house while allowing for the lot situated to the west of the house to be subdivided. The Symons Residence will be preserved in its original location. This report sets out a general conservation strategy and guidelines for the conservation of the original elements of the house.

¹ See page 16 of Symons' book where he recounts: "We managed to find a builder – one, McCrimmon, who agreed to build a bungalow for \$2,800.... and throw in a schoolroom at the back, 20x20x12', for another \$200."

2. HISTORIC CONTEXT

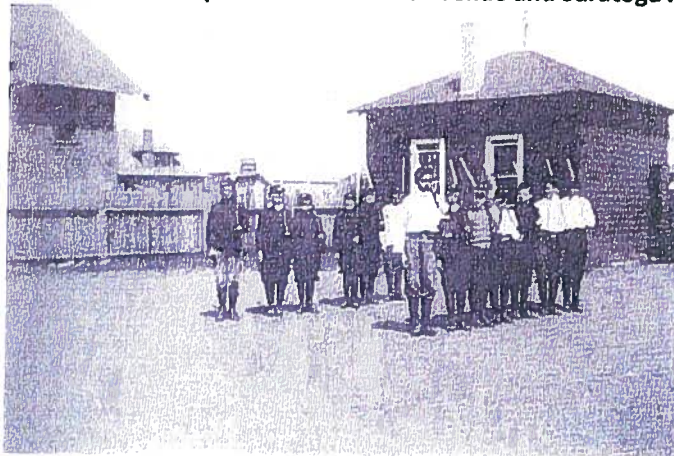
The bungalow at 2176 Windsor Road was originally built as the residence at St. Michael's School, a private boys' preparatory school, and the first private boys school in Oak Bay. First established in 1910 by Kyrle C. Symons, the school was originally located in Esquimalt. The school took both boarders and day students and followed a strict British-style discipline and Anglican ethos. Due to this academic programme, the school was successful in attracting a number of students from British families who had settled in Victoria.

A key figure in the school's development and relocation to Oak Bay was esteemed architect Francis Rattenbury, whose son was a student at St. Michael's school. Symons, over tea one afternoon, expressed his concern to Rattenbury that the Esquimalt school lacked a proper schoolyard. Rattenbury responded with unequivocal support, telling Symons to find a new site to build a house and school. Rattenbury also stated that he would loan the money to Symons and it could be paid back over a number of years.

With Rattenbury's support, Symons purchased two lots in 1912 on Saratoga Avenue, (now Windsor Road) for the sum of \$2,300. Alex McCrimmon, a prolific Victoria builder, constructed the bungalow for the sum of \$2,800 and the original 20x20x12' schoolroom located at the back of the property for the sum of \$200. Symons and his family took up residence in the house in 1912. The school opened for the Christmas term in August 1912.

"School Prize-Giving Held – The annual prize-giving and closing exercises of Mr. K.C. Symon's school for young boys was held yesterday afternoon at the residence of Mr. and Mrs. F.M. Rattenbury, Beach drive, and proved a most pleasant function. On this occasion for the first time the boys wore their school colours of dark blue and black. The prizes were presented by Ven. Archdeacon Striven, who afterwards gave the boys a fatherly little address. The remainder of the programme consisted of three excellent numbers which were much appreciated. These were the old song, "Ten little Nigger Boys," sung in English, French and Latin; a Swedish drill, and the trial scene from "The Merchant of Venice," which was very well acted, the boys wearing beautiful costumes. Among the donors of the prizes were Mr. C.A. Holland, Mr. A.S. Barton, Mr. M/B. Jackson, and Mr. H.G. Wilson. Those present were afterwards entertained at tea by Mrs. Rattenbury, who during the afternoon was presented with a beautiful bouquet. The school will open again for the Christmas term at the end of August in its new quarters, corner Saratoga avenue and Pleasant street."
Victoria Daily Colonist, June 29, 1912, p.6.

1910 Plan of Subdivision (corner of Pleasant Avenue and Saratoga Ave)



"Our Start in Oak Bay, 1912." [Source: Symons, *That Amazing Institution*, p.23]

**SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014**

By January of 1913 there were fourteen boys enrolled at the school. As the enrollment levels increased, so did the size of the school in order to accommodate its expanding population. The Rattenbury's remained involved, and continued to host the school closing ceremonies.

"SUMMER CLOSING OF ST. MICHAEL'S – Schoolboys Entertain Parents and Friends in Unique Programme on Grounds of Mr. and Mrs. Rattenbury – The summer closing of St. Michael's School took place yesterday afternoon under conditions that could scarcely have been improved, and was marked by a programme, given by the pupils under the supervision of their master, Mr. K. Symons, which was a striking testimony to their ability and to their training. Through the kindness of Mr. and Mrs. F.M. Rattenbury the exercises were held on the grounds of their beautiful Oak Bay Residence... Victoria Daily Colonist, July 8, 1914, p.3.

Between 1917 and 1923, two additional lots were purchased to augment the school site, and contractor W.M. Sutton built a gymnasium.



St. Michael's School Staff and Students, 1918 [St. Michael's University School Wilson Archives 1997.01.05.01]

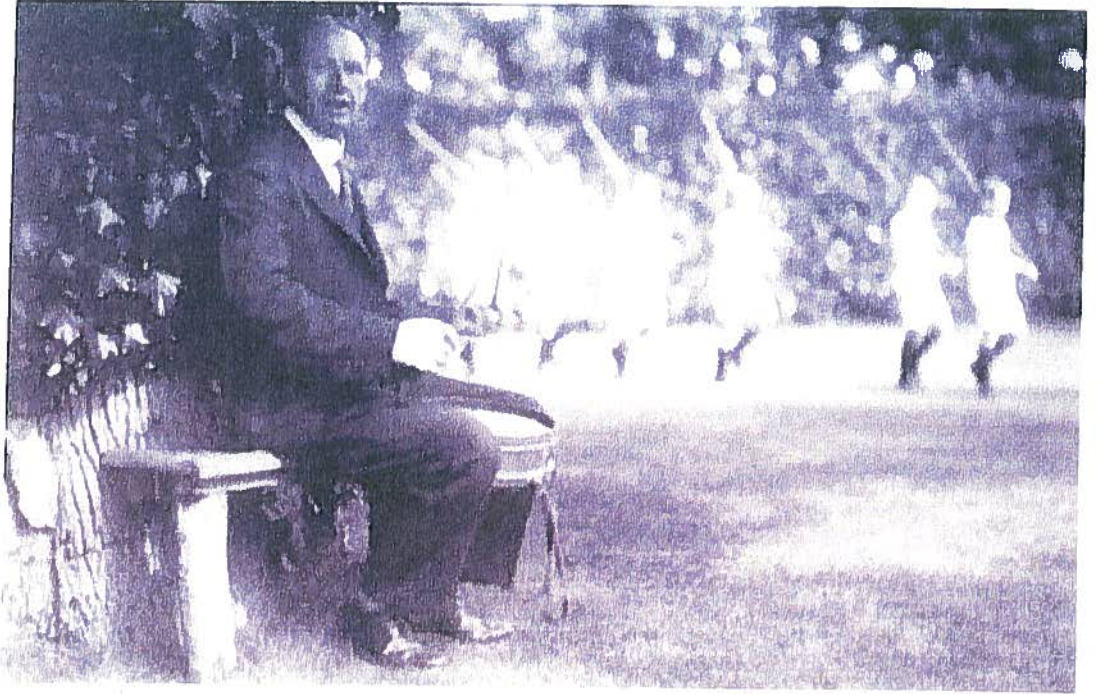
**SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014**



St. Michael's School, West Elevation 1921 Source: [Blackhall/Crofton collection]

By 1959, the enrollment of the school had reached 120. That same year, the Oak Bay Fire Marshall declared that the building did not meet fire regulations. This, coupled with the expanding student population, prompted the relocation of the school to 820 Victoria Avenue. In 1972, St Michael's School merged with University School to form St. Michael's University School (SMU). Concurrent with the move in 1959-60, the schoolroom and gym were demolished and the playgrounds sold and subdivided. The Victoria Avenue boarding home was sold circa 1980. The Symons family remained at the Windsor Road residence until it was sold in 1995. At that time an extensive renovation and upgrade supervised by local architect Pamela Charlesworth was undertaken. In 2011, further renovation saw the front porch redesigned and enclosed to enlarge the parlour.

**SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014**



K.C. Symons, 1932. [St. Michael's University School Wilson Archives]

**SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014**



**Opening Ceremonies for the New Victoria Avenue School, 1959. K.C. Symons is cutting the ribbon.
[St. Michael's University School Wilson Archives 2002.38.09]**

2.1 ORIGINAL OWNER: KYRLE CHARLES SYMONS

St. Michael's School was the personal creation of one man. Born in India on June 2, 1881, Kyrle Charles Symons was the son of Kyrle Ernle Symons, a civil servant, and Margaret Read. Sent back to Dulwich College, a recently established public school, Symons went on to Oxford University and trained as an Anglican cleric. "Disenchantment with his perception of the Church's focus on wealthy parishioners over work among the poor caused him to leave the ministry and emigrate to Canada. He arrived in Victoria in August 1908, with little money and a pregnant wife, and "the idea of starting a little school of his own." His first teaching job was at a small common school at the tip of Salt Spring Island, where his son, Kyrle William, was born. In 1910, a summer resident of Salt Spring offered him a lucrative holiday job tutoring his son, and a substantial salary if he would continue in Victoria in the fall. Now the father of a second son, Symons took the opportunity, establishing a small school at Esquimalt where he was soon acquiring other students.

By 1910, he had established a school in Esquimalt that was the genesis of the later St. Michael's school. On July 11, 1936, his son, Kyrle William Symons, also a teacher at the school, married Joan Champneys

**SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014**

Watts in Oak Bay at St. Mary's Anglican Church. His son Ned also taught at the school; a third son, Michael, died in active service with the Royal Air Force in the Second World War.

K.C. Symons retired in 1950, and died on November 19, 1965. The Symons family retained ownership of the Windsor Road residence until it was sold in 1995.

2.2 ORIGINAL BUILDER: ALEXANDER MCCRIMMON

Jennifer Nell Barr; Excerpt from "Building the West" [updated 2014]

Alexander "Alex" McCrimmon, the only son of contractor, Duncan Farquhar McCrimmon and his wife Ellen, was born in Cornwall, Ontario on September 18, 1876. The family moved to Victoria in 1891. Duncan McCrimmon died in 1907 at the age of fifty-seven, and Alex continued in the contracting business. Alex designed and built his own buildings, and built at least ten homes on or near Linden Avenue; Numbers 75 and 532 Linden are his most distinctive one-storey design — a bungalow with a chunky hipped roof and front-hipped extension sheltering the corner verandah — and this design appears in a number of places in the city. He also designed and built elegant versions of the two-storey Arts and Crafts Edwardian house common in Victoria. His earliest known plans are for a 1908 house on Medana Street in James Bay, and his last known project was an alteration in the Rockland district in 1957. In 1913 he commissioned architect, Louis R. Hazeltine, to design the landmark Alkazar Apartments on Fairfield Road. Possibly Victoria's most distinctive early apartment block, it was demolished in 1977. Alex married Edna Heathfield Simons in Victoria in 1909, and the couple had two sons, Leslie and Ronald; Leslie would later go into business with his father as a builder. Alex was a charter and life member of the Benevolent & Protective Order of Elks, Victoria Lodge No.2, and a member of Modern Woodmen of the World. He retired in 1957, died on May 7, 1958, and was buried in the family plot in Ross Bay Cemetery.

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**SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014**

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**SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014**

4. CONSERVATION GUIDELINES

4.1 STANDARDS AND GUIDELINES

The Parks Canada *Standards and Guidelines for the Conservation of Historic Places in Canada* (2010) is the source used to assess the appropriate level of conservation and intervention. Under the *Standards and Guidelines*, the work proposed for the Symons Residence includes aspects of preservation, rehabilitation and restoration.

Preservation: the action or process of protecting, maintaining, and/or stabilizing the existing materials, form, and integrity of a historic place or of an individual component, while protecting its heritage value.

Restoration: the action or process of accurately revealing, recovering or representing the state of a historic place or of an individual component, as it appeared at a particular period in its history, while protecting its heritage value.

Rehabilitation: the action or process of making possible a continuing or compatible contemporary use of a historic place or an individual component, through repair, alterations, and/or additions, while protecting its heritage value.

Interventions to the Symons Residence should be based upon the Standards outlined in the *Standards and Guidelines*, which are conservation principles of best practice. The following **General Standards** should be followed when carrying out any work to an historic property.

STANDARDS

1. Conserve the heritage value of a historic place. Do not remove, replace, or substantially alter its intact or repairable character-defining elements. Do not move a part of a historic place if its current location is a character-defining element.
2. Conserve changes to a historic place, which over time, have become character-defining elements in their own right.
3. Conserve heritage value by adopting an approach calling for minimal intervention.
4. Recognize each historic place as a physical record of its time, place and use. Do not create a false sense of historical development by adding elements from other historic places or other properties or by combining features of the same property that never coexisted.
5. Find a use for a historic place that requires minimal or no change to its character defining elements.
6. Protect and, if necessary, stabilize a historic place until any subsequent intervention is undertaken. Protect and preserve archaeological resources in place. Where there is potential for disturbance of archaeological resources, take mitigation measures to limit damage and loss of information.

SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014

7. Evaluate the existing condition of character-defining element to determine the appropriate intervention needed. Use the gentlest means possible for any intervention. Respect heritage value when undertaking an intervention.
8. Maintain character-defining elements on an ongoing basis. Repair character-defining element by reinforcing the materials using recognized conservation methods. Replace in kind any extensively deteriorated or missing parts of character-defining elements, where there are surviving prototypes.
9. Make any intervention needed to preserve character-defining elements physically and visually compatible with the historic place and identifiable upon close inspection. Document any intervention for future reference.

Additional Standards relating to Rehabilitation

10. Repair rather than replace character-defining elements. Where character-defining elements are too severely deteriorated to repair, and where sufficient physical evidence exists, replace them with new elements that match the forms, materials and detailing of sound versions of the same elements. Where there is insufficient physical evidence, make the form, material and detailing of the new elements compatible with the character of the historic place.
11. Conserve the heritage value and character-defining elements when creating any new additions to a historic place and any related new construction. Make the new work physically and visually compatible with, subordinate to and distinguishable from the historic place.
12. Create any new additions or related new construction so that the essential form and integrity of a historic place will not be impaired if the new work is removed in the future.

Additional Standards relating to Restoration

13. Repair rather than replace character-defining elements from the restoration period. Where character-defining elements are too severely deteriorated to repair and where sufficient physical evidence exists, replace them with new elements that match the forms, materials and detailing of sound versions of the same elements.
14. Replace missing features from the restoration period with new features whose forms, materials and detailing are based on sufficient physical, documentary and/or oral evidence.

4.2 CONSERVATION REFERENCES

The work entails the conservation of the exterior of the Symons Residence. In additions to specific materials and practice references listed in *Section 5: Conservation Recommendations*, the following conservation references should be considered:

SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014

Standards and Guidelines for the Conservation of Historic Places in Canada, Parks Canada, 2010.
<http://www.historicplaces.ca/en/pages/standards-normes/document.aspx>

National Park Service, Technical Preservation Services. Preservation Briefs:

Preservation Brief 9: The Repair of Historic Wooden Windows.

<http://www.nps.gov/tps/how-to-preserve/briefs/9-wooden-windows.htm>

Preservation Brief 10: Exterior Paint Problems on Historic Woodwork.

<http://www.nps.gov/tps/how-to-preserve/briefs/10-paint-problems.htm>

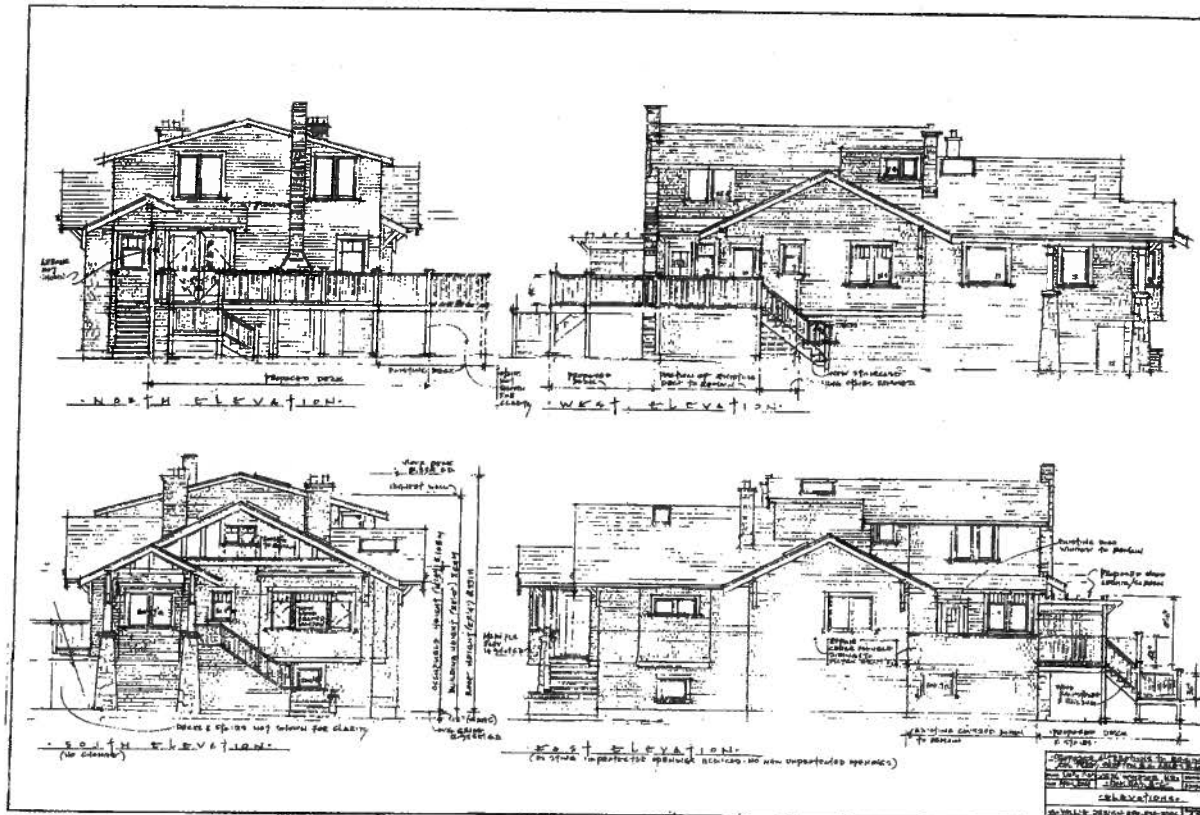
Preservation Brief 47: Maintaining the Exterior of Small and Medium Size Historic Buildings.

<http://www.nps.gov/tps/how-to-preserve/briefs/47-maintaining-exteriors.htm>

4.3 GENERAL CONSERVATION STRATEGY

The primary intent is to preserve the existing historic structure, while restoring elements whenever possible. The proposed redevelopment scheme for this property has been prepared Archie Willie Designs, and includes the following proposed interventions:

- Subdivision of property to split the existing lot into two separate parcels. The protected birch tree at the rear of the property will be retained.
- Removal of the existing deck on the west elevation, and addition of a wraparound deck on the north and west elevations.
- Removal of associated garage located at the southwest corner of the property.
- Replacement of the vinyl window on the front façade with a new wooden-sash casement window.



Proposed plans for new porch. A. Willie Designs

Since there are proposed additions to the historic building, all new visible construction will be considered a modern addition to the historic structure. The *Standards and Guidelines* list recommendations for new additions to historic places, which also apply to new construction in the near vicinity of a historic structure. The proposed design scheme should follow these principles:

- Designing a new deck in a manner that draws a clear distinction between what is historic and what is new.
- Design for the new work may be contemporary or may reference design motifs from the historic place. It should be compatible in terms of materials and colour, yet be distinguishable from the historic place.
- The new additions should be physically and visually compatible with, subordinate to and distinguishable from the preserved historic fabric.

4.4 HERITAGE EQUIVALENCIES AND EXEMPTIONS

Once the Symons Residence becomes legally protected under a Heritage Revitalization Agreement, and is included on the Oak Bay Heritage Register, it will be eligible for heritage variances that will enable a higher degree of heritage conservation and retention of original material, including considerations available under the following municipal legislation.

SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014

4.4.1 BRITISH COLUMBIA BUILDING CODE

Building Code upgrading ensures life safety and long-term protection for historic resources. It is important to consider heritage buildings on a case-by-case basis, as the blanket application of Code requirements do not recognize the individual requirements and inherent strengths of each building. Over the past few years, a number of equivalencies have been developed and adopted in the British Columbia Building Code that enable more sensitive and appropriate heritage building upgrades. Table A-1.1.1.1., found in Appendix A of the Code, outlines the "Alternative Compliance Methods for Heritage Buildings."

Given that Code compliance is such a significant factor in the conservation of heritage buildings, the most important consideration is to provide viable economic methods of achieving building upgrades. In addition to the equivalencies offered under the current Code, the municipality can also accept the report of a Building Code Engineer as to acceptable levels of code performance.

4.4.2 ENERGY EFFICIENCY ACT

The provincial Energy Efficiency Act (Energy Efficiency Standards Regulation) was amended in 2009 to exempt buildings protected through heritage designation or listed on a community heritage register from compliance with the regulations. Energy Efficiency standards therefore do not apply to windows, glazing products, door slabs or products installed in heritage buildings. This means that exemptions can be allowed to energy upgrading measures that would destroy heritage character-defining elements such as original windows and doors.

These provisions do not preclude that heritage buildings must be made more energy efficient, but they do allow a more sensitive approach of alternate compliance to individual situations and a higher degree of retained integrity. Increased energy performance can be provided through non-intrusive methods of alternate compliance, such as improved insulation and mechanical systems. Please refer to the *Standards and Guidelines for the Conservation of Historic Places in Canada (2010)* for further detail about "Energy Efficiency Considerations."

5. CONSERVATION RECOMMENDATIONS

A condition review of the Symons Residence, 2176 Windsor Road was carried out during a site visit on March 19, 2014. In addition to the visual review of the exterior of the home, paint samples were taken from exterior building materials and examined. The recommendations for the preservation and restoration of the historic façades are based on the site review, material samples and archival documents that provide valuable information about the original appearance of the historic building. The following chapter describes the materials, physical condition and recommended conservation strategy for the Symons Residence based on Parks Canada's *Standard and Guidelines for the Conservation of Historic Places in Canada* (2010).

5.1 SITE

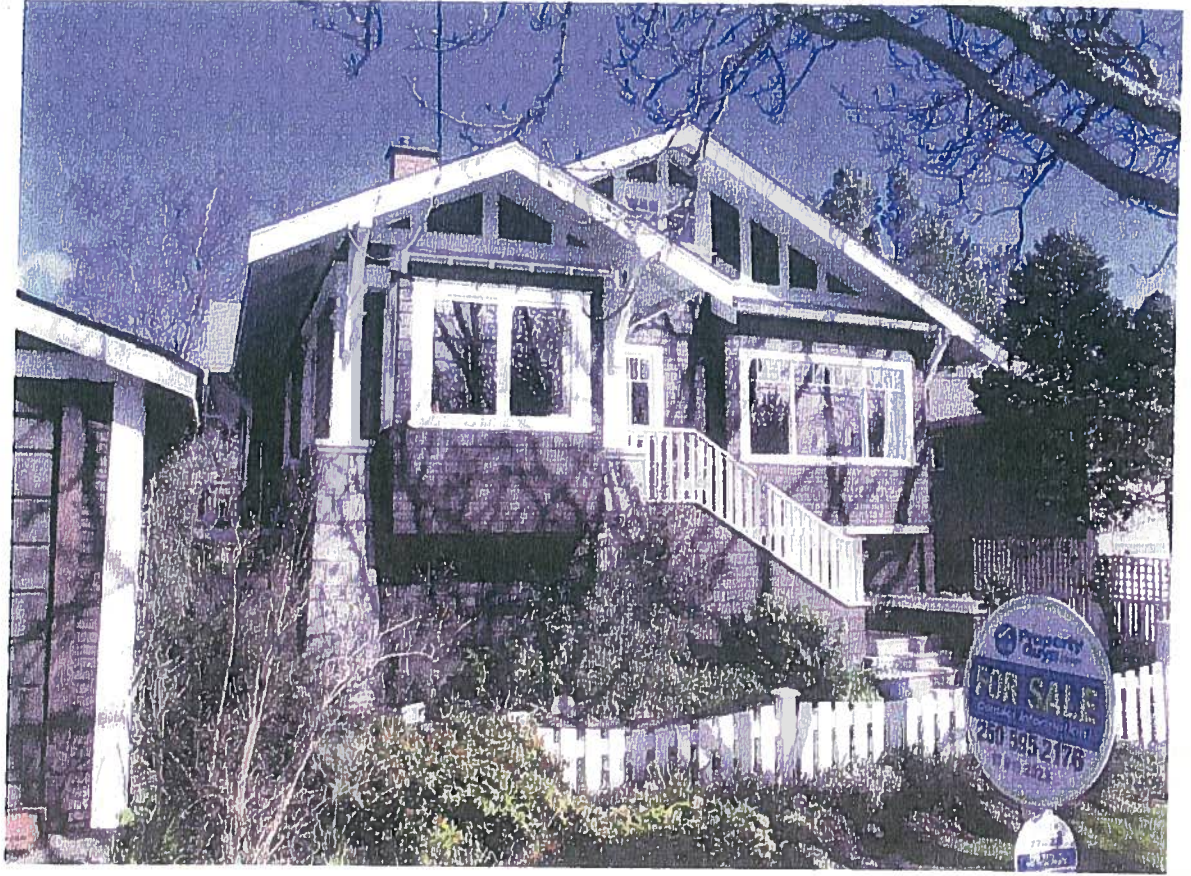
Conservation Strategy: Preservation, Restoration

- Preserve the original location of the building.
- Retain the main frontage on Windsor Road.

5.2 OVERALL FORM

Conservation Strategy: Preservation / Restoration

- Preserve the overall form, scale and massing of the building.
- The appearance of the historic front façade should be retained and restored.



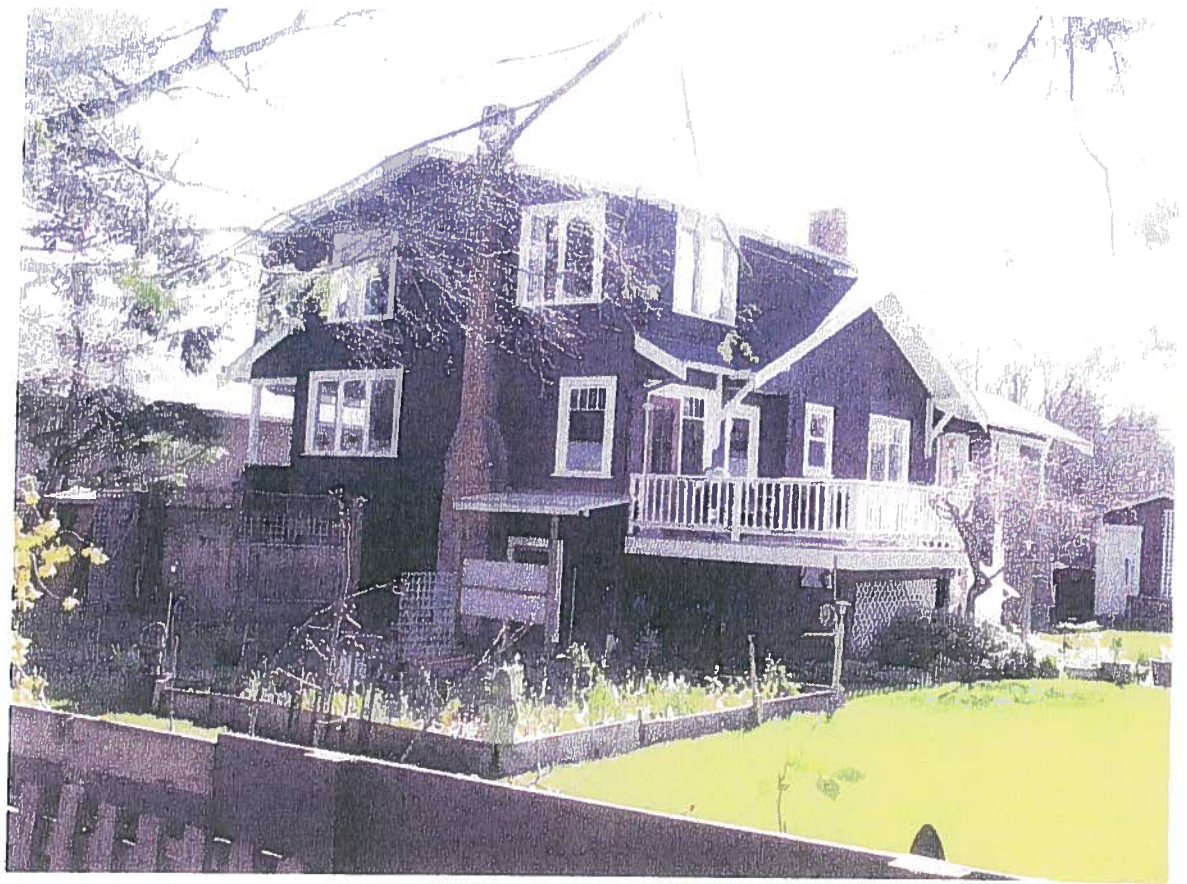
Front elevation

5.3 FOUNDATION

Conservation Strategy: Preservation

- Existing foundations should be preserved, whenever possible.
- If new foundations are proposed in future, concrete is a suitable material. New material should match original in appearance, as viewed from the exterior.
- Prior to any future work to the foundations a Structural Engineer should examine and assess them. Once condition is assessed, conservation recommendations can be finalized.
- To ensure the prolonged preservation of the new foundations, all landscaping should be separated from the foundations at grade by a course of gravel or decorative stones, which help prevent splash back and assist drainage.

SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014



North and west elevations. Additions are proposed for wraparound deck.

**SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014**



West elevation

5.4 EXTERIOR WALLS

Conservation Recommendation: Preservation and Restoration

- The wood frame walls retain their integrity, and should be preserved through retention and in-situ repair work.
- Any cleaning procedures should be undertaken with non-destructive methods. Areas with biological growth should be cleaned using a soft, natural bristle brush, without water, to remove dirt and other material. If a more intense cleaning is required, this can be accomplished with warm water, mild detergent (such as Simple Green®) and a soft bristle brush. High-pressure power washing, abrasive cleaning or sandblasting should not be allowed under any circumstances.

5.4.2 SHINGLE SIDING



Detail of shingle siding. Note shingles that are cracked and weathered. These should be replaced in kind.



Shingles above watertable on east elevation show signs of deterioration

Conservation Recommendation: Preservation/Rehabilitation

- Preserve original shingle siding on all elevations, if possible, and clean surface for repainting.
- Replace damaged shingle siding to match existing in material, size, profile and thickness.
- Portions of the shingle siding on the east and west elevations are showing signs of deterioration, including weathering, cupping and/or splitting.

**SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014**

- Where shingles are damaged, replace in kind with shingles that are both visually and physically compatible with the original wooden shingle siding. Hardi-plank or other man-made shingles are not acceptable.

5.4.2 WOOD TRIM

The original façades of the Symons Residence feature decorative wooden trim around the doors and windows, fascia bands and crown mouldings.

Conservation Strategy: Preservation

- Any existing trim should be preserved, and new material that is visually and physically compatible with the original should be reinstated when original fabric is missing or deteriorated.
- Combed and/or textured lumber is not acceptable.
- Hardi-plank or other cementitious boards are not acceptable.

5.4.3 HALF-TIMBERING

Half-timbering is a character-defining element of the historic house, and should be preserved. The half-timbering within the gable peaks appears to be in good condition.



Detail of half timbering in front gable peak

Conservation Strategy: Preservation

- Wood half-timbering should be preserved.

- Cleaning procedures should be undertaken with non-destructive methods. Areas with biological growth should be cleaned using a soft, natural bristle brush, without water, to remove dirt and other material. If a more intense cleaning is required, this can be accomplished with warm water, mild detergent (such as Simple Green©) and a soft bristle brush. High-pressure power washing, abrasive cleaning or sandblasting should not be allowed under any circumstances.

5.5 GRANITE PIERS

Granite piers are a prominent material on the historic house. Two tapered granite piers, of random ashlar masonry, support the front porch columns. The granite is unpainted, with a grey-coloured mortar. The granite piers are a character-defining element of the historic house, and should be preserved.

Conservation Recommendation: Preservation

- Preserve the granite piers on the front elevation.
- Clean exterior stone surfaces, as required. Careful attention should be paid not to damage the more delicate mortar joints between stones. Stone should remain unpainted.
- Inspect mortar joints in all stone detailing, and repair as required. Repaired mortar should be visually and physically compatible with existing, including colour, strength and visual appearance.



Detail of granite pier with grey mortar

5.6 FENESTRATION

Windows and doors are among the most conspicuous feature of any building. In addition to their function — providing light, views, fresh air and access to the building — their arrangement and design is fundamental to the building's appearance and heritage value. Each element of fenestration is, in itself, a complex assembly whose function and operation must be considered as part of its conservation.

5.6.1 WINDOWS

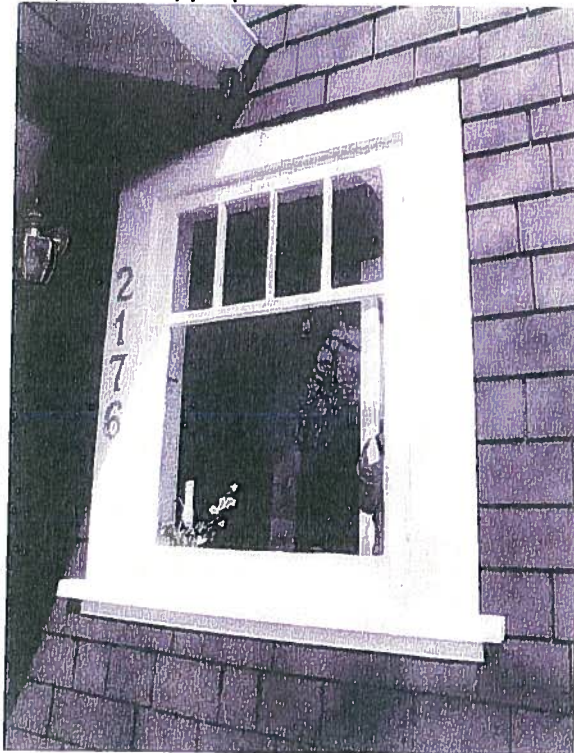
The window on the front façade is a replacement vinyl assembly; this should be restored with a wood frame casement assembly to match the original.

Conservation Strategy: Preservation, Restoration

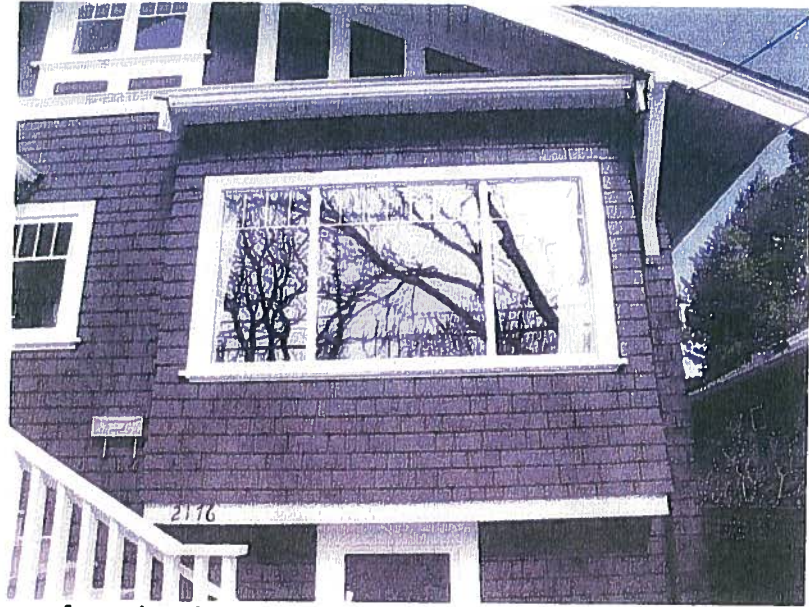
- Restore vinyl window on façade with a triple assembly, multi-paned wood frame casement window, as shown in the architectural drawings. As per exemptions from the Energy Efficiency
-

SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014

- Act, this new window can be single-glazed, in order that the original muntin profile can be matched, and not thickened to hold double-glazed units.
- Inspect existing windows for condition and complete detailed inventory to determine extent of recommended repair.
- Preserve and repair as required, using in kind repair techniques where feasible.
- Overhaul, tighten/reinforce joints. Repair frame, trim, hinges and locking mechanisms.
- Each window should be made weather tight by re-puttying and weather-stripping as necessary.
- Retain historic glass, where possible. Where broken glass exists in historic wood-sash windows, the broken glass should be replaced. When removing broken glass, the exterior putty should be carefully chipped off with a chisel and the glazier's points should be removed. The wood where the new glass will be rested on should be scraped and cleaned well, and given a coat of linseed oil to prevent the wood from absorbing the oil from the new putty. The new glass should be cut 1/16-1/8th smaller than the opening to allow for expansion and irregularities in the opening, to ensure the glazing does not crack due to natural forces. A contractor skilled in heritage restoration should undertake window repairs.
- Replacement glass to be single glazing, and visually and physically compatible with existing.
- Prime and repaint as required in appropriate colour.



Original wood frame casement window on front elevation



Vinyl window on front elevation; recommendation of restoration to original wood frame.

5.6.2 DOORS

Conservation Strategy: Preservation, Restoration

- Retain the door openings in their original locations, and preserve and repair all original doors.
- Any new doors should be visually compatible with the historic character of the building.

5.7 ROOF

Conservation Recommendation: Preservation

- Preserve the roof structure in its current configuration.
- If required, roof cladding system may be rehabilitated. Cedar shingles are the preferred material, but Duroid shingles are also acceptable.
- Retain the original bargeboards and fascia boards, as well as the soffits and any exposed roof elements.
- Design and install adequate rainwater disposal system and ensure proper drainage from the site is maintained. Wood gutters with galvanized steel downspouts are recommended; regular metal systems are also acceptable, as long as colour is carefully considered.

5.7.1 CHIMNEYS

Conservation Recommendation: Preservation

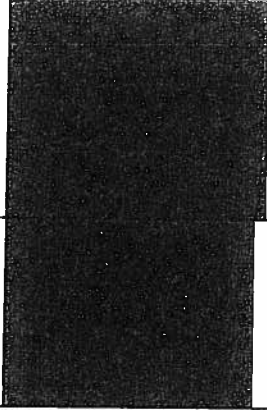

- Preserve the chimneys in their original configuration.
- Chimneys over time may require structural stabilization.
-

- Investigate condition of brickwork. If required, brickwork may be cleaned using a natural bristle brush and mild rinse detergent.
- If re-pointing is required, match existing colour, strength, and appearance of existing mortar. Ensure that any new mortar does not exceed the compressive strength of the brick or damage will occur due to weathering. Mortar should be softer than the existing brick.

5.8 EXTERIOR COLOUR SCHEDULE

Part of the restoration process is to finish the building in historically appropriate paint colours. The following original colour scheme was determined by the Heritage Consultant, based on on-site paint sampling and microscopic paint analysis. This matches the appearance seen in archival images, where the window sash are the lightest element on the building. The colours have been matched to Benjamin Moore's Historical True Colours Palette.

When repainting in the future, consideration should be given to reinstating an appropriate historical scheme, either based on the original colours or authentic to the time period and style of the house. Prior to final paint application, samples of proposed colours should be placed on the building to be viewed in natural light. Final colour selection can then be verified.

Location	Colour	Colour Sample	Code	Finish
Shingles and Main Body (originally stained)	Craftsman Brown		VC-32	Flat
All Wooden Trim	Vancouver Green		VC-20	Semi-Gloss
Wooden Sash and flat panels in Half-Timbering	Edwardian Buff		VC-6	High Gloss

SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014

Conservation Recommendation: Restoration

- When repainting, consider restoring the original finish, hue and placement of applied colour.
- Complete all basic repairs and restoration, and remove surface dust and grime before preparing, priming and painting. Be sure that all surfaces to be painted are thoroughly dry.
- Scrape and sand painted surfaces only as deep as necessary to reach a sound base. Do not strip all previous paint except to repair base-material decay.
- Remove deteriorated paint that is not adhered to the wood using a metal scraper.
- Remove dust and dirt with the gentlest method possible such as low-pressure (hose pressure) water washing, with soft natural brushes or putty knives.
- Paint all areas of exposed wood elements with primer. Select an appropriate primer for materials being painted (e.g. if latex paint is used over original oil paint, select an oil-based primer).
- Re-apply colours using architectural trim wrap, in which colour is applied to give a three-dimensional appearance to the surfaces by wrapping the applied colour around their edges.

6. MAINTENANCE PLAN

It is highly recommended that a Maintenance Plan be adopted by the property owner, who is responsible for the long-term protection of the heritage features of the historic building. The Maintenance Plan in the Conservation Plan is not legally binding; however, the Heritage Revitalization Agreement (HRA) bylaw will outline basic maintenance requirements for the house.

The Maintenance Plan should include provisions for:

- Copies of the Maintenance Plan and this Conservation Report to be incorporated into the terms of reference for the management and maintenance contract for the building;
- Cyclical maintenance procedures to be adopted as outlined below; and
- Record drawings, photos and records of all maintenance procedures to be kept by the owner.

A thorough maintenance plan will ensure that the integrity of the Symons Residence is preserved. If existing materials are regularly maintained and deterioration is significantly reduced or prevented, the integrity of materials and workmanship of the building will be protected. Proper maintenance is the most cost-effective method of extending the life of a building, and preserving its character-defining elements. The survival of historic buildings in good condition is primarily due to regular upkeep and the preservation of historic materials.

6.1 MAINTENANCE GUIDELINES

A maintenance schedule should be formulated that adheres to the *Standards and Guidelines for the Conservation of Historic Places in Canada* (2010). As defined by the Standards and Guidelines, maintenance is defined as:

Routine, cyclical, non-destructive actions necessary to slow the deterioration of a historic place. It entails periodic inspection; routine, cyclical, non-destructive cleaning; minor repair and refinishing operations; replacement of damaged or deteriorated materials that are impractical to save.

The assumption that newly renovated buildings become immune to deterioration and require less maintenance is a falsehood. Rather, newly renovated buildings require heightened vigilance to spot errors in construction where previous problems had not occurred, and where deterioration may gain a foothold.

Routine maintenance keeps water out of the building, which is the single most damaging element to a heritage building. Maintenance also prevents damage by sun, wind, snow, frost and all weather; prevents damage by insects and vermin; and aids in protecting all parts of the building against deterioration. The effort and expense expended on an aggressive maintenance will not only lead to a higher degree of preservation, but also over time potentially save large amount of money otherwise required for later repairs.

6.2 PERMITTING

Once the project is completed, any repair activities, such as simple in-kind repair of materials, should be exempt from requiring municipal permits. Other more intensive activities will require the issuance of a Heritage Alteration Permit.

6.3 ROUTINE, CYCLICAL AND NON-DESTRUCTIVE CLEANING

Following the *Standards and Guidelines for the Conservation of Historic Places in Canada*, be mindful of the principle that recommends "using the gentlest means possible". Any cleaning procedures should be undertaken on a routine basis and should use non-destructive methods. Exterior elements are usually easily cleaned, simply with a soft, natural bristle brush, without water, to remove dirt and other material. If a more intensive cleaning is required, this can be accomplished with warm water, mild detergent and a soft bristle brush. High-pressure washing, sandblasting or other abrasive cleaning should not be undertaken under any circumstances.

6.4 REPAIRS AND REPLACEMENT OF DETERIORATED MATERIALS

Interventions such as repairs and replacements must conform to the *Standards and Guidelines for the Conservation of Historic Places in Canada*. The building's *character-defining elements* – characteristics of the building that contribute to its heritage value (and identified in the Statement of Significance) such as materials, form, configuration, etc. - must be conserved, referencing the following principles to guide interventions:

An approach of minimal intervention must be adopted - where intervention is carried out it will be by the least intrusive and most gentle means possible.

- Repair rather than replace character-defining elements.
- Repair character-defining elements using recognized conservation methods.
- Replace 'in kind' extensively deteriorated or missing parts of character-defining elements.
- Make interventions physically and visually compatible with the historic place.

6.5 INSPECTIONS

Inspections are a key element in the maintenance plan. These inspections should be conducted on a regular and timely schedule. The inspection should address all aspects of the building including exterior, interior and site conditions. It makes good sense to inspect a building in wet weather, as well as in dry, in order to see how water runs off – or through – a building.

From this inspection, an inspection report should be compiled that will include notes, sketches and observations. It is helpful to have copies of the building's elevation drawings on which to mark areas of concern such as cracks, staining and rot. These observations can then be included in the report. The report need not be overly complicated or formal, but should be thorough, clear and concise. Issues of concern, taken from the report should then be entered in a log book so that corrective action can be documented and tracked.

An appropriate schedule for regular, periodic inspections would be twice a year, preferably during spring and fall. The spring inspection should be more rigorous since in spring moisture-related deterioration is most visible, and because needed work, such as painting, can be completed during the good weather in summer. The fall inspection should focus on seasonal issues such as weather-sealants, mechanical (heating) systems and drainage issues. Comprehensive inspections should occur at five-year periods, comparing records from previous inspections and the original work, particularly in monitoring structural movement and durability of utilities. Inspections should also occur after major storms.

6.6 INFORMATION FILE

The building should have its own information file where an inspection report can be filed. This file should also contain the log book that itemizes problems and corrective action. Additionally, this file should contain building plans, building permits, heritage reports, photographs and other relevant documentation so that a complete understanding of the building and its evolution is readily available, which will aid in determining appropriate interventions when needed.

The file should also contain a list outlining the finishes and materials used, and information detailing where they are available (store, supplier). The building owner should keep on hand a stock of spare materials for minor repairs.

6.6.1 LOG BOOK

The maintenance log book is an important maintenance tool that should be kept to record all maintenance activities, recurring problems and building observations and will assist in the overall maintenance planning of the building. Routine maintenance work should be noted in the maintenance log to keep track of past and plan future activities. All items noted on the maintenance log should indicate the date, problem, type of repair, location and all other observations and information pertaining to each specific maintenance activity. Each log should include the full list of recommended maintenance and inspection areas noted in this Maintenance Plan, to ensure a record of all activities is maintained. A full record of these activities will help in planning future repairs and provide valuable building information for all parties involved in the overall maintenance and operation of the building, and will provide essential information for long term programming and determining of future budgets. It will also serve as a reminder to amend the maintenance and inspection activities should new issues be discovered or previous recommendations prove inaccurate. The log book will also indicate unexpectedly repeated repairs, which may help in solving more serious problems that may arise in the historic building. The log book is a living document that will require constant adding to, and should be kept in the information file along with other documentation noted in *Section 6.6 Information File*.

6.7 EXTERIOR MAINTENANCE

Water, in all its forms and sources (rain, snow, frost, rising ground water, leaking pipes, back-splash, etc.) is the single most damaging element to historic buildings. The most common place for water to enter a building is through the roof. Keeping roofs repaired or renewed is the most cost-effective

maintenance option. Evidence of a small interior leak should be viewed as a warning for a much larger and worrisome water damage problem elsewhere and should be fixed immediately.

6.7.1 INSPECTION CHECKLIST

The following checklist considers a wide range of potential problems specific to the Symons Residence such as water/moisture penetration, material deterioration and structural deterioration.

EXTERIOR INSPECTION

Site Inspection:

- Is the lot well drained? Is there pooling of water?
- Does water drain away from foundation?

Foundation

- Moisture: Is rising damp present?
- Is there back-splashing from ground to structure?
- Is any moisture problem general or local?
- Are there shrinkage cracks in the foundation?
- Are there movement cracks in the foundation?
- Is crack monitoring required?
- Is uneven foundation settlement evident?
- Are foundation crawl space vents clear and working?
- Do foundation openings (doors and windows) show: rust; rot; insect attack; paint failure; soil build-up;
- Any deflection of lintels over structural openings?

Granite Piers

- Need for pointing or repair? Condition of existing pointing and re-pointing?
- Are there any cracks due to structural movement?
- Do the surfaces need cleaning?

Wood Elements:

- Are there moisture problems present? (Rising damp, rain penetration, condensation moisture from plants, water run-off from roof, sills, or ledges?)
- Is wood in direct contact with the ground?
- Is there insect attack present? Where and probable source?
- Is there fungal attack present? Where and probable source?
- Are there any other forms of biological attack? (Moss, birds, etc.) Where and probable source?
- Is any wood surface damaged from UV radiation? (bleached surface, loose surface fibres)
- Is any wood warped, cupped or twisted?
- Is any wood split? Are there loose knots?

SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014

- Are nails pulling loose or rusted?
- Is there any staining of wood elements? Source?
- Condition of exterior painted materials:
 - Paint shows: blistering, sagging or wrinkling, alligating, peeling. Cause?
 - Paint has the following stains: rust, bleeding knots, mildew, etc. Cause?
 - Paint cleanliness, especially at air vents?

Porches:

- Are steps safe? Handrails secure?
- Attachment – are porches, steps, etc. securely connected to the building?

Windows

- Is there glass cracked or missing?
- Has putty gone brittle and cracked? Fallen out? Painted to shed water?
- Is there condensation or water damage to the paint?
- Are the sashes easy to operate?
- Is each frame free from distortion?
- Do sills show weathering or deterioration?
- Are drip mouldings/flashing above the windows properly shedding water?
- Is the caulking between the frame and the cladding in good condition?

Doors

- Do the doors create a good seal when closed?
- Are the hinges sprung? In need of lubrication?
- Do locks and latches work freely?
- If glazed, is the glass in good condition? Does the putty need repair?
- Are door frames wicking up water? Where? Why?
- Are door frames caulked at the cladding? Is the caulking in good condition?
- What is the condition of the door sills?

Gutters and Downspouts

- Are downspouts leaking? Clogged? Are there holes or corrosion that shed water against the walls?
- Are downspouts complete, without any missing sections? Are they properly connected?
- Is the water being effectively carried away from the downspout by a drainage system?

Roof

- Are there water blockage points?
- Is the leading edge of the roof wet?
- Is there evidence of biological attack? (Fungus, moss, birds, insects)
- Are the nails sound? Are there loose or missing shingles?
- Do the soffits show any signs of water damage? Insect or bird infestation?
- Is there rubbish buildup on the roof?

SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014

- Are flashings well positioned and sealed?
- Is water ponding present?

Chimneys

- Need for pointing repair? Condition of existing pointing and re-pointing?
- Are there cracks due to structural movement? Leaning out of plumb?
- Are there stains present? Rust, copper, organic, paints, oils / tars? Cause?
- Do the surfaces need cleaning?

INTERIOR INSPECTION

Basement

- Are there signs of moisture damage to the walls? Is concrete cracked, discoloured, spalling?
- Is wood cracked, peeling rotting? Does it appear wet when surroundings are dry?
- Are there signs of past flooding, or leaks from the floor above? Is the floor damp?
- Are walls even or buckling or cracked? Is the floor cracked or heaved?
- Are there signs of insect or rodent infestation?

Concealed spaces

- Is light visible through walls, to the outsider or to another space?
- Are the ventilators for windowless spaces clear and functional?
- Do pipes or exhausts that pass through concealed spaces leak?
- Are wooden elements soft, damp, cracked? Is metal material rusted, paint peeling or off altogether?
- Infestations - are there signs of birds, bats, insects, rodents, past or present?

Attic

- Any signs of water infiltration?
- Is ventilation adequate?

6.7.2 MAINTENANCE PROGRAMME

INSPECTION CYCLE:

The semi-annual spring inspection should be more rigorous since in spring moisture-related deterioration is most visible, and because needed work, such as painting, can be completed during the good weather in summer. The fall inspection should focus on seasonal issues such as weather-sealants, mechanical (heating) systems and drainage issues.

Daily

- Observations noted during cleaning (cracks; damp, dripping pipes; malfunctioning hardware; etc.) to be noted in log book or building file.

Annually (Spring)

- Semi-annual inspection and report with special focus on seasonal issues.
- Thorough inspection and cleaning of drainage system to cope with summer storms.
- Inspect concrete for cracks, deterioration.
- Inspect windows for paint and glazing compound failure, corrosion and wood decay and proper operation.
- Touch up worn paint on the building's exterior.
- Check for plant, insect or animal infestation.
- Routine cleaning, as required.

Annually (Fall)

- Semi-annual inspection and report with special focus on seasonal issues.
- Thorough inspection and cleaning of drainage system to cope with winter rains.
- Inspect windows for paint and glazing compound failure, corrosion and wood decay and proper operation.

- Check condition of weather sealants.
- Check operation of all mechanical systems.
- Touch up worn paint on the building's exterior.
- Check for plant, insect or animal infestation.
- Routine cleaning, as required.

Five-Year Cycle

- A full inspection report should be undertaken every five years, comparing records from previous inspections and the original work, particularly monitoring structural movement and durability of utilities.
- Repaint windows every five to fifteen years, as required.

Ten-Year Cycle

- Check condition of roof every ten years after last replacement.

Twenty-Year Cycle

- Confirm condition of roof and estimate effective lifespan. Replace when required.

Major Maintenance Work (as required)

- Replacement of deteriorated building materials as required.

7. RESEARCH SOURCES

Subject Property: Symons Residence, Oak Bay
Civic Address: 2176 Windsor Road
Construction Date: 1912
Original Owner: K.C. Symons / St. Michael's School
Original Architect: attributed to Alexander McCrimmon
Original Builder: Alexander McCrimmon
Original Builder (Gym): W.M. Sutton

OAK BAY ARCHIVES

- Permit Book (1911-1917): 2176 Saratoga; Owner: Mr. Simmons [sic].
- Building Permit issued April 30, 1912 to E. [sic] McCrimmon.
 - Plumbing Permit issued June 5, 1912 to Victoria Plumbing Co.
 - Sewer Permit issued on June 28, 1912 to Silver & Brynjolfsen.

NEWSPAPERS

- *Victoria Daily Colonist*, April 27, 1911: Lots for sale on Saratoga Avenue.
- *Victoria Daily Colonist*, June 29, 1912, p.6: "School Prize-Giving Held."
- *Victoria Daily Colonist*, July 8, 1914, p.3: "Summer Closing of St. Michael's."
- *Victoria Daily Colonist*, December 20, 1913: "Permit... Mr. K. Symons for alterations to a house on Saratoga Avenue."

BOOKS

- Baird, R. *Success Story: the History of Oak Bay*.
- Barman, Jean. *Growing Up British in British Columbia: Boys in Private School*. Vancouver, UBC Press, 2011.
- Symons, K. *That Amazing Institution: The Story of St. Michael's School, Victoria, B.C. from 1910-1948*. Victoria, n.p., 1948.
- Luxton, Donald. *Building the West: The Early Architects of British Columbia*. Vancouver, Talonbooks, 2007 2nd. Ed.

DIRECTORIES

Henderson's Greater Victoria Directory, 1912: page 611

- Symons, Kyrle C tchr h 725 Sea Terrace

Henderson's Greater Victoria Directory, 1913: page 823

- Symons, Kyrle C tchr h – Saratoga (O B)

Henderson's Greater Victoria Directory, 1914: page 242

- Saratoga Avenue – Pleasant Av intersects: 2176 St. Michael's School.

Henderson's Greater Victoria Directory, 1914: page 684

- Symons, Kyrle of St Michaels School h 2176 Saratoga (OB)

Henderson's Greater Victoria Directory, 1914: page 937

SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014

- Classified Business Directory: Colleges: St Michael's School 2176 Saratoga (O B)

INTERVIEW

Jennifer Nell Barr with Ian McCrimmon, grandson of Alexander McCrimmon, April 12, 2014.

B.C. VITAL EVENTS

- SYMONS, KYRLE CHARLES; Age: 84; Date: 1965/11/19; Event Place: VICTORIA; Registration Number: 1965-09-014445; Event Type: Death.
- Groom Name: SYMONS, KYRLE WILLIAM; Bride Name: WATTS, JOAN CHAMPNEYS; Date: 1936/07/11; Event Place: OAK BAY; Registration Number: 1936-09-437530; Event Type: Marriage.
- McCRIMMON, ALEXANDER; Age: 81; Date: 1958/05/07; Event Place: VICTORIA; Registration Number: 1958-09-005319; Event Type: Death. McCrimmon listed as "Architect & Builder."
- Groom Name: McCRIMMON, ALEXANDER; Bride Name: SIMONS, EDNA HEATHFIELD; Date: 1909/09/15; Event Place: VICTORIA; Registration Number: 1909-09-018291; Event Type: Marriage. McCrimmon listed as "Contract Builder."

SYMONS RESIDENCE, 2176 WINDSOR ROAD: CONSERVATION PLAN
Donald Luxton & Associates Inc. April 2014

Appendix 3

CONFIRMATION OF COMMITMENT

I, CHARLES GORDON BLACKHALL, of 2176 Windsor Road, Victoria, BC V8S 3C6, do solemnly declare that:

- 1. I make this declaration to the best of my personal knowledge.
- 2. This declaration is made pursuant to the District of Oak Bay Bylaw No. 4623, 2014, in relation to the land legally described as:

Legal Description: Lot A (DD385125I), Block 2, Section 23, Victoria District, Plan 1091

Parcel Identifier: 008-034-524

Civic Address: 2176 Windsor Road

- 3. I have applied to subdivide my land and restore the Symons residence.
- 4. I will conduct all work in compliance with the report prepared by Donald Luxton and Associates Inc. dated April 2014.
- 5. I make this solemn declaration, conscientiously believing it to be true and knowing that it is the same force and effect as if made under oath and pursuant to the Canada Evidence Act.

SWORN BEFORE ME at _____, in the Province of British Columbia, this _____ day of _____, 2014.

A Commissioner for Taking Affidavits
for British Columbia

)
) _____
) Signature of person making
) declaration
)

Appendix 4

Certification of Compliance

I, Don Luxton, Heritage Consultant, certify that Charles Gordon Blackhall, as declared in the Confirmation of Commitment, has complied with all work required to restore the Symons Residence, as outlined in my report dated April 2014.

This declaration is made pursuant to the District of Oak Bay Bylaw No. 4623, 2014 , in relation to the land legally described as:

Legal Description: Lot A (DD385125I), Block 2, Section 23, Victoria District, Plan 1091

Parcel Identifier: 008-034-524

Civic Address: 2176 Windsor Road

I make this solemn declaration, conscientiously believing it to be true and knowing that it is the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

SWORN BEFORE ME at _____, in the Province of British Columbia, this _____ day of _____, 2014.

A Commissioner for Taking Affidavits
for British Columbia

)
)
)
) _____
) Donald Luxton, Heritage
) Consultant
)