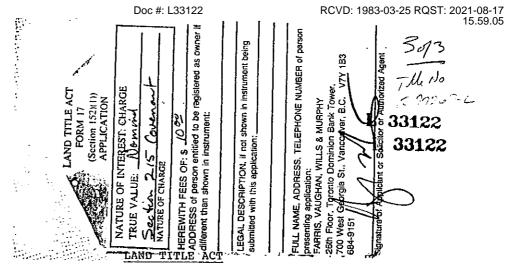
Appendix J	
COVENANTS AND BLACKCOMB DEVELOPMENT PERMIT	
MC3 ZONE KEY PLAN AREA E	
(4900 GLACIER DRIVE)	
LAND USE CONTRACT TERMINATION BYLAW (BLACKCOMB	
MOUNTAIN) NO. 2350, 2022	

Status: Registered



Section 215

THIS AGREEMENT made as of the 22 day of November,

1982.

BETWEEN:

FORTRESS MOUNTAIN RESORTS LTD., a body corporate under the laws of Canada having an address and place of business in the Province of British Columbia at 2600-700 West Georgia Street, Vancouver, British Columbia (Extra-Provincial Registration No. A-14,833)

(herein called the "Covenantor")

LAND ITTLE ACT

MEMORARM I CECTON 3:1

OF THE FIRST PART OF REGISTRATIC:

HAR 25 10 OI A 83 LAMO TITLE OFFICE

RESORT MUNICIPALITY OF WHISTLER, a Municipality incorporated under the Resort Municipality of the paper on the Whistler Act, having an address at P.O. Box of the line witten have on the General Delivery, Whistler, British Columbia (COUVER LAND THE OFFICE VON 1B0)

(herein called the "Covenantee")

OF THE SECOND PART

#### WHEREAS:

A. The Covenantor is the registered owner of those lands and premises (hereinafter called the "Lands") situate, lying and being in the Resort Municipality of Whistler, in the Province of British Columbia, and more particularly known and described as:

Lot 1 District Lot 3903 Plan 19506

0349 TRH 10 REG 1 CLK 25/03/83 PAID - "BCG" VANCOUVER "LTO"

B. The Lands, inter alia, are subject to a Land Use Contract (herein called the "Land Use Contract") registered in the Vancouver Land Title Office under No. G2520; the Land Use Contract Status: Registered

- 2 -

PLAN REFERENCE TO MERCHA
PRESERVED AND HELD UNDER
DOCUMENT NUMBER L 33122

provides that at the time of application to the Covenantee for approval of a subdivision the Covenantor shall submit to the Covenantee for approval a plan containing the information as set out in the Land Use Contract, and further provides that the Covenantor will grant to the Covenantee, a covenant restricting the use and the development of the Lands to the use and development as set out in the plan;

- C. The Covenantor has submitted to the Covenantee for approval, a plan for the use and development of a proposed day skier service area facility on the Lands, a copy of the plan as submitted is attached hereto as Schedule "A" (herein called the "Development Plan");
- D. The Covenantee has agreed to approve the Development Plan subject to the terms and conditions of this Covenant, all of which have been acknowledged and agreed to by the Covenantor;
- E. Section 215 of the Land Title Act of British Columbia, S.B.C. 1978 Ch. 25, as amended (herein called the "Land Title Act") provides, inter alia, that a covenant, whether of a negative or positive nature, in respect of the use of the land or the use of a building on or to be erected on land, in favour of a Municipality, may be registered as a charge against the title to that land;
- F. The Covenantor received a development permit from the Covenantee on the 17th day of September, 1979 in respect of the improvements which are situate on the Lands at the date hereof.

NOW THEREFORE THIS AGREEMENT WITNESSES that pursuant to Section 215 of the Land Title Act, and in consideration of the premises and the sum of One Dollar (\$1.00), now paid by the Covenantee to the Covenantor (the receipt and sufficiency whereof is hereby acknowledged), the Covenantor covenants and agrees with the Covenantee as follows:

1. The Covenantor shall use the Lands only for the uses specifically permitted pursuant to this Covenant or in such other manner as may be approved in writing by the Covenantee and without limiting the generality of the foregoing, the Lands shall not be used or developed except in accordance with each of:

d L 33122

- 3 -

- (a) the Development Plan attached hereto as Schedule "A"; and
- (b) the terms and conditions of this Covenant.
- 2.1 Notwithstanding anything to the contrary herein this Covenant contained, the Lands and all buildings and improvements thereon shall be used as a day skier service facility used and operated in conjunction with and as an integral part of the skiing facilities on Blackcomb Mountain and in addition may be used for the following purposes: administrative offices, storage lockers, restaurant, bar, pub, ski and sports shop, employee dwelling unit and for all purposes ancillary thereto.
- 2.2 The total square foot area of the development on the Lands (exclusive of decks) shall not exceed in the aggregate 25,000 square feet of gross built area without the approval of the Covenantee and unless the Covenantor shall have earned and allocated thereto "BU's" (as defined in the Land Use Contract) in accordance with the provisions of the Land Use Contract.
- 2.3 The employee dwelling unit permitted to be constructed as part of the development on the Lands shall be used solely as an accessory employee apartment for the residence of one full time employee of the Covenantor and for no other purpose whatsoever; and
- 2.4 The Lands shall not be subdivided whether pursuant to the Land Title Act, the Condominium Act or otherwise howsoever.
- 3. The Covenantor shall, in the event of the destruction of any improvement built or constructed in accordance with this Covenant, have the right to repair and rebuild that improvement so long as it substantially complies with the conditions contained in this Covenant.
- 4. Nothing contained or implied herein shall prejudice or affect the Covenantee's rights and powers in the exercise of its functions pursuant to the Municipal Act or the Resort Municipality of Whistler Act or its rights and powers under all of its public and private statutes, by-laws, orders and regulations, or the rights of the Covenantee under the Land Use Contract, all of which may be fully and effectively exercised in relation to the Lands as if this Covenant has not been executed and delivered by the Covenantor.

- 4 -

- 5. The covenants set forth herein shall charge the Lands pursuant to Section 215 of the Land Title Act and shall be covenants the burden of which shall run with the Lands and bind the Lands and every part or parts thereof and shall attach to and run with the Lands and each and every part to which the Lands may be divided or subdivided whether by subdivision plan, strata plan or otherwise howsoever.
- 6. Notwithstanding anything contained herein, neither the Covenantor named herein nor any future owner of the Lands or any portion thereof shall be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Covenantor named herein or any future owner ceases to have any further interest in the Lands.
- 7. The Covenantor will, after execution hereof by it, at the expense of the Covenantor do or cause to be done all acts reasonably necessary to grant priority to this Covenant over all charges and encumbrances which may have been registered against the title to the Lands in the Vancouver Land Title Office.
- 8.1 The Covenantee hereby consents to the crossing of the Road, shown on Plan No. 19506 registered in the Vancouver Land Title Office, by the chairlift locally known as "Blackcomb Lift No. 1" and to the granting to the Covenantor of a right-of-way or Statutory right-of-way in respect thereof by Her Majesty the Queen in Right of the Province of British Columbia.
- 8.2 The Covenantor hereby agrees to indemnify and save harmless the Covenantee from any and all liability whatsoever arising as a result of aforesaid crossing including, but without limiting the generality of the foregoing, any and all claims for loss or injury to persons or to property due to the Covenantor's negligence or to the Covenantor's failure to comply with the Covenantee's bylaws or any one of them or with the provisions of this agreement.
- 8.3 This agreement shall not in any way restrict the right of the Covenantee at any time and at all times to enter into and upon the area below, above or around aforesaid crossing for the purpose of constructing, maintaining, inspecting or removing any public works or utility.
- 8.4 This agreement shall not in any way restrict any lawful right of the Covenantee at any time to widen, raise or lower the

- 5 -

.4 , L 33122

sidewalk, roadway or boulevard within the area of aforesaid crossing.

- 9. Wherever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or body corporate or politic where the context or the parties so require.
- 10. The parties hereto shall do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Covenant.
- 11. This Covenant and each and every provision hereof shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns, as the case may be.

IN WITNESS WHEREOF the Covenant was executed as at the day and year first above written.

The Corporate Seal of FORTRESS MOUNTAIN RESORTS LTD. was here- unto affixed in the presence of:	) } } (C/5)
Authorized Signatory	) } }
Authorized Signatory	j
The Corporate Seal of the RESORT MUNICIPALITY OF WHISTLER was hereunto affixed in the presence of:  MUNICIPALITY OF WHISTLER was hereunto affixed in the presence of:  Mayor  L. K. Ansay Robinson  Clark	) ) ) ) (c/s) )

#### LAND TITLE ACT

# FORM 6 (Section 46) PROOF OF EXECUTION BY CORPORATION

I certify that on the 12th day of January, 1983, at the City of Vancouver, in British Columbia, HUGH R. SMYTHE who is personally known to me, appeared before me and acknowledged to me that he is the authorized signatory of FORTRESS MOUNTAIN RESORTS LTD. and that he is the person who subscribed his name and affixed the seal of the corporation to the instrument, that he was authorized to subscribe his name and affix the seal to it and that the corporation existed at the date the instrument was executed by the corporation.

IN TESTIMONY of which I set my hand at the City of Vancouver, this  $\Pi^{(2)}$  day of January, 1983.  $\diagup$ 

A Commissioner for taking Affidavits for the Province of British Columbia

L 33122

LAND TITLE ACT

FORM 6
(Section 46)
PROOF OF EXECUTION BY CORPORATION

I certify that on the <sup>2</sup> day of <del>January</del>, 1983, at whister Lois Existing School of British Columbia,

who is personally known to me, appeared before me and acknowledged to me that he/she is the authorized signatory of RESORT MUNICIPALITY OF WHISTLER and that he/she is the person who subscribed his/her name and affixed the seal of the corporation to the instrument, that he/she was authorized to subscribe his/her name and affix the seal to it and that the corporation existed at the date the instrument was executed by the corporation.

IN TESTIMONY of which I set my hand at Whore British Columbia, this 2rd day of January, 1983.

A Commissioner for Taking
Affidavits for British Columbia.
ROCER A. STACE

26TH FLOOR. TORONTO DOMINION BANK TOWER 700 WEST GEORGIA STREET VANCOUVER, B.C. V7Y 183

	HMM/9c ⊱	LAND TITLE ACT Section 215	AND: RESORT MUNICIPALITY OF WHISTLER	BETWEEN: FORTRESS MOUNTAIN RESORTS LTD.
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09 48 BH423961.	LAND THUS OFFICE	
F. OEAWD TITLE ACT 13/442-3 962 - # No.	LAND THEE OFFICE NEW WESTMINSTERZ NEW VANCERVER	X
	TUSED	$\wedge$
Province of British Columbia	J.W	
GENERAL INSTRUMENT - PART 1 (This a	rea for Land Title Office use)	Page 1 of 7 pages
1. APPLICATION: (Name, address, phone number and signature of appl	licant, applicant's solicitor or agent)	
John Doolan, McCarthy Tétrault 1300 - 777 Dunsmuir Street Vancouver, British Columbia	Á	PACIFIC GOAST TITLE SEARCH LIMITED
V7Y 1K2 Phone: 669-2611		
2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIP	PTION(S) OF LAND: *	
(PID) (LEGAL DESCRIP 007-147-325 Resort Mur. Lot 1 District I	icipality of Whistler	
R23679 Plan 19506		· .
3. NATURE OF INTEREST:*		
DESCRIPTION	DOCUMENT REFERENCE (page and paragraph)	PERSON ENTITLED TO INTEREST
Modification of Section 215 Covenant L33122	Pages 1 to 5 Paragraphs 1 to 6	Transferees
Priority Agreement granting Modification of Covenant Priority over Option to Purchase L33123 and Mortgage GB73115	Page 6 Paragraphs 1 and 2	Transferees
Priority Agreement granting Modification of Covenant priority over Mortgage BE301569, modified by BF226693 and extended by BG274617	Page 7 Paragraphs 1 and 2	Transferees
4. TERMS: Part 2 of this instrument consists of (select one only):	D.F. Number:	
(a) Filed Standard Charge Terms (b) Express Charge Terms	Annexed as Part 2	
(c) Release A selection of (a) includes any additional or modified terms referred to in Iter	☐ There is no Part 2 of this instrument in 10 or in a schedule annexed to this instrume	
released or discharged as a charge on the land described in Item 2.		
5. TRANSFEROR(S): *		

RESORT MUNICIPALITY OF WHISTLER (as to Modification of Section 215 Covenant)

BLACKCOMB SKIING ENTERPRISES LTD. (Extra-provincial Registration No. A-14833) (as to Modification of Section 215 Covenant)

HER MAJESTY THE OUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA (as to grant of priority)

ROYAL BANK OF CANADA (as to grant of priority)

LAND TITLE ACT
FORM C
(Section 219.81)
Province of British Columbia

**GENERAL INSTRUMENT - PART 1** 

(This area for Land Title Office use)

Page 2 of 7 pages

TRANSFEREE(S): (including postal address(cs) and postal code(s))\*

RESORT MUNICIPALITY OF WHISTLER 4325 Blackcomb Way Whistler, British Columbia, VON 1B4

BLACKCOMB SKIING ENTERPRISES LTD. (Extra-provincial Registration No. A-14833) 4545 Blackcomb Way Whistler, British Columbia, VON 1B0

7. ADDITIONAL OR MODIFIED TERMS:\*

USE BLACK INK ONLY

Officer Signature(s)

Nil

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

**Execution Date** 

М

D

LINDA MANHEIM, Deputy Municipal Clerk

A Commissioner for taking Affidavits
for the Province of British Columbia
Resort Municipality of Whistler
4325 Blackcomb Way
Whistler, B.C. VON 1B4
(as to all signatures)

94 10 31

USE BLACK INK ONLY Party(ies) Signature(s)

RESORT MUNICIPALITY
OF WHISTLER by its
Authorized Signatory

Mayor: Ted Nebbeling

PETER KENT
Deputy Municipal Clerk

BLACKCOMB SKIING ENTERPRISES LTD. by its Authorized Signatory(ies):

Dan Janvis

ELIZABETH H. YIP

(as to all signatures)

1300-7770UNSMUIK REET VANUL VY 1K2

OFFICER CERTIFICATION: Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1979, c. 116, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

LAND TITLE ACT
FORM D

#### **EXECUTIONS CONTINUED**

Page 3 of 7 pages

USE BLACK INK ONLY	Ex	ecution 1	Date	USE BLACK INK ONLY
Officer Signature(s)  VIRGINIA WILD  PROJECT ASSISTANT A Commissioner for taking Affidavits in British Col #401 - 4603 Kingsway  Burnaby, B.C. V5H 41/4  Telephone: 660-5500	Y 94 umbia	М	D 23	Transferor/Borrower/Party Signature(s)  HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA by its Authorized Signatory(ies):
R. E. P. MAURICE P.O. BOX 11130 ROYAL CENTRE 1055 WEST GEORGIA STREET VANCOUVER, B.C. V6E 3R3 BARRISTER & SOLICITOR (as to all signatures)	94 <b>9</b> 4	10	14	ROYAL BANK OF CANADA by its Authorized signatory (ies)  AR. TYSON (Victor)  Ames Potter, Account Manager

#### OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public and other person authorized by the Evidence Act, R.S.B.C. 1979, c.116, to take affidavit for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

LAND TITLE ACT

#### **TERMS OF INSTRUMENT - PART 2**

Page 4 of 7 pages

## MODIFICATION OF SECTION 215 COVENANT

BETWEEN:

BLACKCOMB SKIING ENTERPRISES LTD. (Extra-provincial Registration No. A-14833) 4545 Blackcomb Way

Whistler, British Columbia

VON 1B0

(the "Owner")

AND:

RESORT MUNICIPALITY OF WHISTLER 4325 Blackcomb Way Whistler, British Columbia VON 1B4

(the "Municipality")

WHEREAS:

A. The Owner is the registered owner of lands and premises situated in the Resort Municipality of Whistler, British Columbia, legally described as:

Parcel Identifier 007-147-325 Lot 1 District Lot 3903 Plan 19506

(the "Lands");

- B. The Lands are subject to a restrictive covenant pursuant to section 215 of the <u>Land Title Act</u> (the "Covenant") restricting the use and development of the Lands, which Covenant was registered in the Land Title Office under instrument no. L33122; and
- C. The Owner and the Municipality have agreed to modify the Covenant.

THEREFORE in consideration of the amount of One Dollar (\$1.00) now paid by the Owner to the Municipality and other good and valuable consideration (the receipt and sufficiency whereof are hereby acknowledged), the Owner and the Municipality covenant and agree as follows:

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Page 5 of 7 pages

- 1. \_The Section 215 Covenant is hereby modified by adding the following words at the end of subsection 1(a):
  - ", as amended by Blackcomb Permit Application Number 1.2, and as illustrated in Architectural Plans numbers A1 to A3 dated August 22, 1994 prepared by Hearthstone Architecture Inc."
- 2. The parties agree that this Modification Agreement will, from the date hereof, be read and construed along with the Section 215 Covenant and be treated as part thereof and for such purposes and so far as may be necessary to effectuate these presents, the Section 215 Covenant will be regarded as being hereby amended, and the Section 215 Covenant, as so amended, will remain in full force and effect.
- 3. The parties hereto will do all acts and things and execute and cause to be executed all documents which may be necessary to evidence or give full force and effect to this Modification Agreement and the intention hereof.
- 4. This Modification Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
- 5. This Modification Agreement shall run with the Lands.
- 6. This Modification Agreement shall be governed by the laws of the Province of British Columbia.

IN WITNESS WHEREOF this Modification Agreement was executed by the parties on the Form C above.

Page 6 of 7 pages

#### CONSENT AND PRIORITY AGREEMENT

Doc #: BH423963

WHEREAS HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA (the "Chargeholder") is the holder of an option to purchase and a mortgage encumbering the lands described in the attached Modification of Section 215 Covenant (the "Modification"), which option to purchase and mortgage are registered in the New Westminster/Vancouver Land Title Office under instrument numbers L33123 and GB73115 respectively (collectively, the "Charges").

# THEREFORE:

- 1. The Chargeholder hereby consents to the granting and registration of the attached Modification and the Chargeholder hereby agrees that the Modification shall be binding upon its interest in and to the lands described in the Modification.
- 2. The Chargeholder hereby grants to the grantees of the Modification priority for the Modification over the Chargeholder's right, title and interest in and to the lands described in the Modification and the Chargeholder does hereby postpone the Charges and all of its right, title and interest thereunder to the Modification as if the Modification had been executed, delivered and registered prior to the execution, delivery and registration of the Charges and prior to the advance of any money pursuant to the Charges.

IN WITNESS WHEREOF the Chargeholder has executed the Form D above, to which this Consent and Priority Agreement is attached, and which forms part of this Consent and Priority Agreement.

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Page 7 of 7 pages

#### CONSENT AND PRIORITY AGREEMENT

WHEREAS ROYAL BANK OF CANADA (the "Chargeholder") is the holder of a mortgage encumbering the lands described in the attached Modification of Section 215 Covenant (the "Modification"), which mortgage is registered in the New Westminster/Vancouver Land Title Office under instrument number BE301659, modified by BF226693 and extended by BG274617 (collectively, the "Charge").

#### THEREFORE:

- 1. The Chargeholder hereby consents to the granting and registration of the attached Modification and the Chargeholder hereby agrees that the Modification shall be binding upon its interest in and to the lands described in the Modification.
- 2. The Chargeholder hereby grants to the grantees of the Modification priority for the Modification over the Chargeholder's right, title and interest in and to the lands described in the Modification and the Chargeholder does hereby postpone the Charge and all of its right, title and interest thereunder to the Modification as if the Modification had been executed, delivered and registered prior to the execution, delivery and registration of the Charge and prior to the advance of any money pursuant to the Charge.

IN WITNESS WHEREOF the Chargeholder has executed the Form D above, to which this Consent and Priority Agreement is attached, and which forms part of this Consent and Priority Agreement.

- END OF DOCUMENT -



October 24, 1994

File: BPA. 1.2

Walter Powell Hearthstone Architecture Inc. PO Box 1113 Whistler, BC V0N 1B0

Dear Walter,

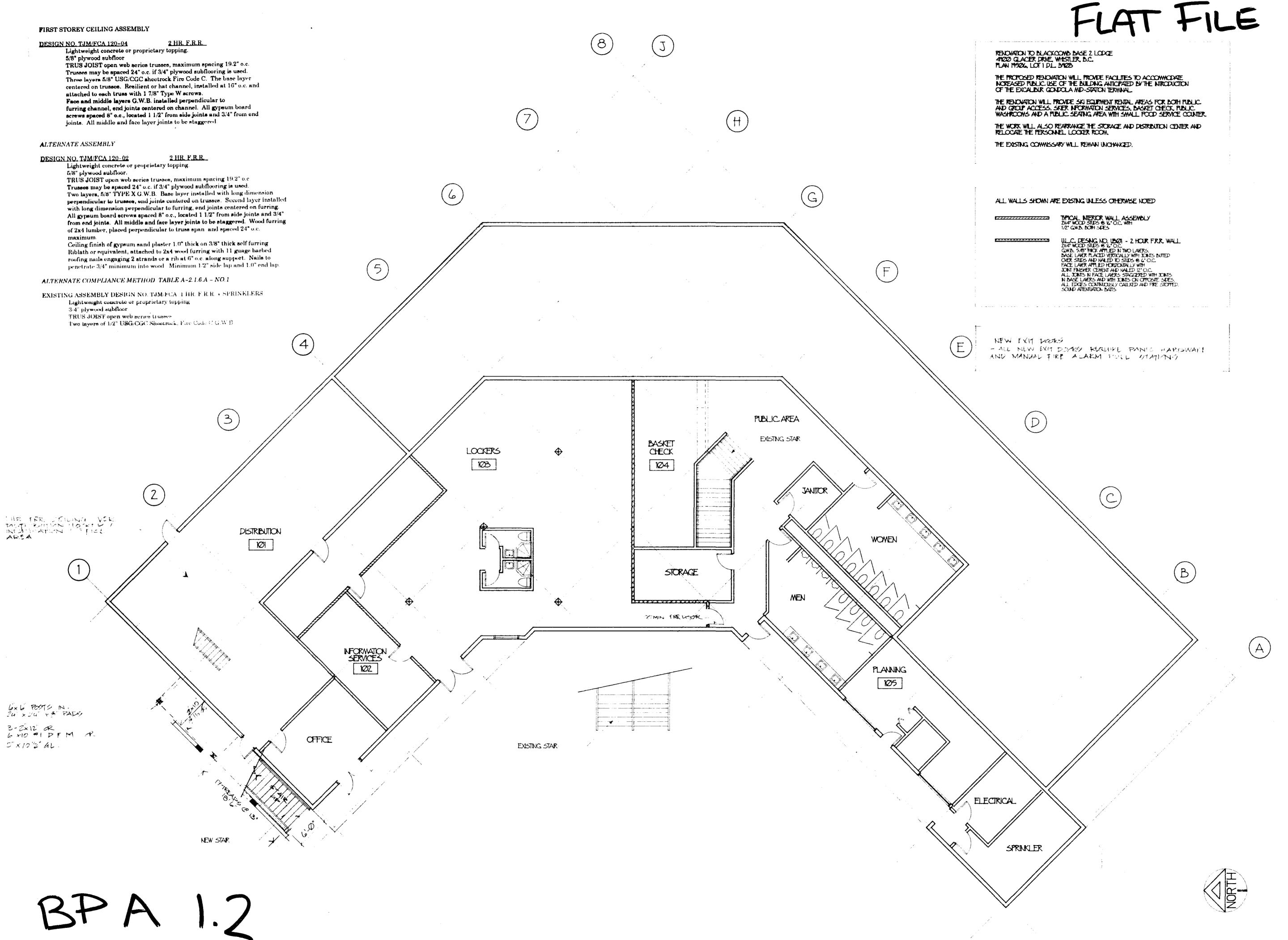
### RE: BPA. 1.2: Blackcomb Base II (Reno)

This is to advise that Blackcomb Permit Application No. 1.2 was issued by the Municipality on October 20, 1994 respecting the above noted development. A copy of the permit is enclosed for your records. Should you have any questions, please contact the writer.

Yours truly,

Nancy Ford Contract Planner

tm/NF1:1-blcmbs



# Hearthstone ARCHITECTURE INC.

P.O. Box 1113, Whistler, B.C. CANADA VON-180 Phone (604) 938-8058 Fax (604) 938-3082

This drawing and all rights thereof are the exclusive property of Hearthstone Anchitecture Inc. and may not be used or reproduced for any purpose without written permission. The owner named hereon is authorized to reproduce this drawing for the express purpose of performing work related to the job named hereon. The contractor is advised that the architect is to be notified of any discrepancies which occur between the actual built condition and this drawing. Revisions to this drawing are authorized only if the revisions are clearly marked and signed by an officer of Hearthstone Architecture Inc. and the drawing issue has been sealed with the professional seal. This drawing does not form a complete set of contract documents.

SEPTEMBER 19, 1994 ISSUED FOR BUILDING PERMIT APPL

All terms Actions

NUMBER: BP 1.2

SCHEQULE:

DATE OF ISSUANCE: Oct 29/1999

AUTHORIZING SIGNATURE: 1/1/2

BLACKCOMB BASE II RENOVATION

BLACKCOMB SKIING ENTERPRISES WHISTLER, B.C.

Drawing number

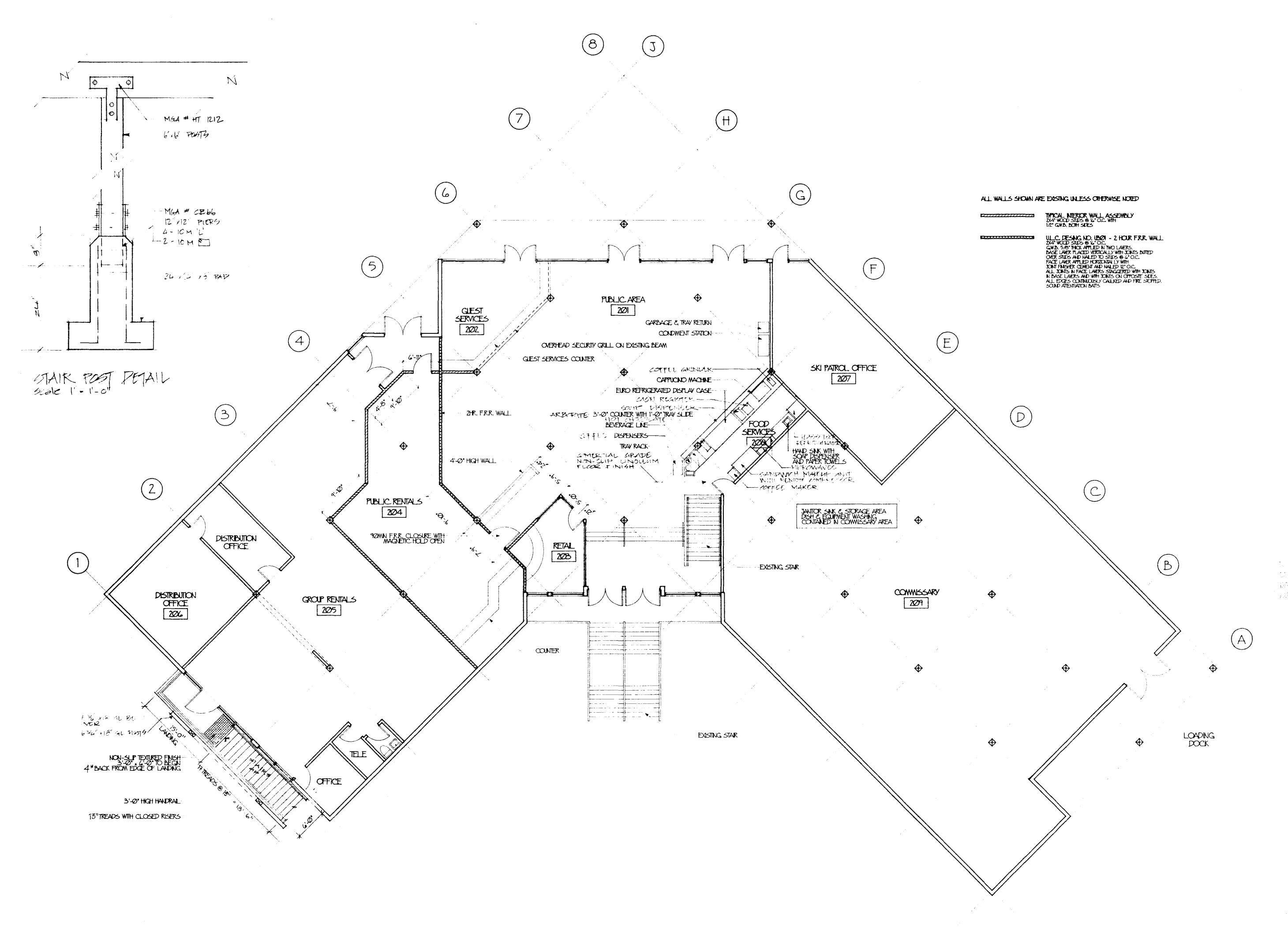
BSE 0394-03

1/8" = 1'-Ø"

SEPTEMBER 19, 1994

Drawing title BASE 2 LOWER LEVEL PLAN

Ø. 1



P.O. Box 1113, Whistler, B.C. CANADA VON-1B0 Phone (604) 938-8058 Fax (604) 938-3082

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SEPTEMBER 19, 1994 ISSUED FOR BUILDING, PERMIT APPL.

#1 100 CLV TO 127M JUTTERE

BP 1.2

BLACKCOMB BASE II RENOVATION

BLACKCOMB SKING ENTERPRISES WHISTLER, B.C.

Drawing number

BSE 0394-03

1/8" = 1'-Ø"

SEPTEMBER 19, 1994

Drawn by Walter R. Powell

Drawing title

BASE 2 UPPER LEVEL PLAN

Revision number

 $\emptyset.1$ 

