



Committee of the Whole Report For the Meeting of March 11, 2021

To: Committee of the Whole **Date:** February 25, 2021
From: Karen Hoese, Director, Sustainable Planning and Community Development
Subject: **Development Permit with Variances Application No. 000155 for 749-767 Douglas Street**

RECOMMENDATION

- 1.) "That Council refer application No. 00746 for the property located at 749-767 Douglas Street back to staff to work with the applicant to introduce the following refinements:

Building Massing, Design, Form and Character:

- a) reduce the infringement into View 5: Olympic Mountains from Douglas Street by setting the building back approximately 10m from the west property line
- b) increase the proposal's consistency with design guidelines pertaining to form, character, exterior design and finishes, particularly with respect to the flat façade and cladding material
- c) commit to meeting Step 3 BC Building Code requirements.

Landscaping and Public Realm:

- a) extend the Humboldt Street Plaza to Penwill Street
- b) increase the statutory right-of-way width on Douglas street to include the seating and weather protection at the building face
- c) include a statutory right-of-way to secure the through block access path proposed along the eastern property boundary
- d) remove the exterior digital display screen
- e) provide street trees on Douglas Street
- f) introduce a water/play element as well as additional trees in the south plaza
- g) resolve outstanding site servicing, tree preservation and tree replacement issues.

Transportation Demand Management

- a) require a minimum of 94 BC Transit EcoPasses for a three-year period
- 2.) That Council waive the requirement for additional CALUC consultation that may result from changes made to the proposal in response to the issues identified in this report."

LEGISLATIVE AUTHORITY

In accordance with Section 489 of the *Local Government Act*, Council may issue a Development Permit in accordance with the applicable guidelines specified in the *Community Plan*. A Development Permit may vary or supplement the *Zoning Regulation Bylaw* but may not vary the use or density of the land from that specified in the Bylaw.

Pursuant to Section 491 of the *Local Government Act*, where the purpose of the designation is the revitalization of an area in which a commercial use is permitted, a Development Permit may include requirements respecting the character of the development, including landscaping, and the siting, form, exterior design and finish of buildings and other structures.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Permit with Variances Application for the property located at 749-767 Douglas Street. The proposal is to construct a 12-storey office building with ground floor commercial uses. The variances are to:

- increase the density from 3:1 FSR to 5.47:1 FSR
- increase the height from 43m to 53m
- reduce the interior (south west) side yard setback from 4.5m to 0m
- reduce the interior (south east) side yard setback from 4.5m to 4.0m
- remove the requirement for a 1:5 setback plane on Douglas and Humboldt streets
- reduce the required number of vehicle parking stalls from 221 to 127.

The following points were considered in assessing this application:

- The applicant's objective of creating a landmark building in this location, with the density and aesthetic proposed, together with the geometry of the site, results in a built form at odds with many of the design guidelines that apply to this area.
- The application is subject to the guidelines contained in Development Permit Area 9 (HC): Inner Harbour, which includes requirements respecting the character of development, including landscaping, and the siting, form, exterior design and finish of buildings.
- The proposed flat glass façade and building composition are inconsistent with the placemaking, urban design and heritage objectives contained in the OCP, which call for articulated building forms, complementary cladding materials and designs responsive to the heritage context.
- The proposal advances public realm goals by updating and improving two adjacent existing plaza areas.
- The proposal provides a generous building separation to the residential building to the east, exceeding the Downtown Core Area Plan (DCAP) design guidelines. This increased separation reduces a key protected public view (View 5 of the Olympic Mountains on Douglas Street) which could be mitigated by shifting the proposed siting of the building.
- While the proposed Transit Demand Measures (TDM) will not likely be sufficient to offset the requested parking variance:
 - this will have limited impact on the public right of way as the area is surrounded by existing parking meters and other time limitations on parking
 - the reduced parking supply also helps to protect the Humboldt Street AAA bike route

- this location is well located to take advantage of the available public transit system, walking, and cycling
- to help mitigate a potential parking shortfall and advance OCP transportation mode targets, it is recommended that 94 EcoPasses are provided to future employees for a minimum of a three-year term.
- At a meeting of the Advisory Design Panel (ADP), the application received a positive review with a recommendation for Council support, subject to minor changes, which were subsequently made by the applicant.

This proposal represents benefits to the City, particularly around jobs and the economy and the public realm. Nonetheless, the form of development proposed for this unique site, does challenge other City objectives for the area related to conserving protected views, landmark heritage building policies, and building form and character. Staff believe that through a number of revisions, a better outcome could be achieved that would be more consistent with City policies while continuing to realize the applicant’s program. In reflection of this, the staff recommendation is to work with the applicant to bring forward these refinements. An alternate motion, to advance the application to a Public Hearing, is also provided should Council wish to consider the proposal as presented.

BACKGROUND

Description of Proposal

The proposal is for a 12-storey office building with commercial uses at grade. Specific details include:

- a flat-iron building massing, influenced by the parcel geometry and surrounding road network
- a terraced south elevation with landscaped decks at levels 6, 8, 10, 11, and 12
- a double height ground floor with a main lobby entrance and two commercial retail units
- a recessed ground floor with cantilevered levels above, rising in a single plane without street setbacks
- predominantly glass cladding on the north and south elevations and spandrel panels on the east elevation
- public plaza improvements at the north and south ends of the building
- three levels of underground parking, covered with a single storey, landscaped structure.

Data Table

The following data table compares the proposal with the existing CA-4 Zone. An asterisk is used to identify where the proposal does not meet the requirements of the existing Zone. Additionally, the key City policy that pertains to the area has been included in this table.

Zoning Criteria	Proposal	Existing CA-4 Zone	OCP Policy	Downtown Core Area Plan (DCAP) Policy
Density (Floor Space Ratio) – maximum	5.47*	3.0	4.0	4.0

Zoning Criteria	Proposal	Existing CA-4 Zone	OCP Policy	Downtown Core Area Plan (DCAP) Policy
Total floor area (m ²) – maximum	14,135.62*	7,745.85	10,327.8	10,327.8
Height (m) – maximum	52.92*	43.0	45	45
Storeys – maximum	12	n/a	15	11
Setbacks (m) – minimum				
Street Massing (Douglas) 1:5 setback above 10m	2*	8.6		
Street Massing (Humboldt) 1:5 setback above 10m	0*	8.6		
Interior (south west)	0*	4.5		
Interior (south east)	4.05*	4.5		
Parking – minimum				
Visitor parking included in the overall units – minimum	127*	221		
Bicycle parking – minimum				
Long Term	100	95		
Short Term	41	41		

ANALYSIS

The *Official Community Plan (OCP)* identifies this property within Development Permit Area 9 (Heritage Conservation): Inner Harbour. The objectives of this designation include:

- conserving the heritage value, special character and the significant historic buildings, features and characteristics in the Inner Harbour area
- enhancing the Inner Harbour through high quality architecture, landscape and urban design that reflects the functions of the area as a marine entry, working harbour and community amenity in scale, massing and character while responding to its historic context, including heritage landmark buildings.

In addition to the policies embedded in the OCP, the primary policy that applies to this site is the *Downtown Core Area Plan (2011) (DCAP)*. Policies contained in the *Advisory Design Guidelines for Buildings, Signs and Awnings (1981)* also offer guidance.

Although many of the topics being considered are inter-related with density considerations reviewed in the concurrent rezoning application, the key policies are discussed and analysis is provided in the following sections:

- Context
- Massing
- Form and Character
- Climate Change and Energy
- Landscaping.

Context

Built form policies throughout Victoria aim to ensure that proposals are consistent with and complementary to their relative context. This is a tenet that is particularly important with respect to the four heritage conservation areas that make up Victoria's Downtown. Additional oversight is encouraged for proposals that also fall within a landmark heritage building radius. In all cases, it is a built heritage context that proposals are urged to respond to.

The design guidelines elaborate on the form of contextual design that is encouraged. For this location, DCAP defines contextual sensitivity as:

- responding to the surrounding context as defined by the topography, building spacing, building form, building height, rooflines, massing, setbacks, orientation, building proportions, materials and landscaping
- including detailed architectural qualities and building articulation such as changes in the depth of the surface of a building face, recessed windows or window bays, horizontal or vertical banding, facade rhythm etc.
- employing similar materials found within the heritage building context
- maintaining and respecting the visual prominence and character-defining importance of the Empress Hotel
- conserving key protected views of the Empress Hotel and Olympic Mountains.

Beyond regulating the use, density and overall massing of a proposal, the Local Government Act (LGA) confers authority to municipalities to guide form, character, materials, finishes and, landscaping. In this instance, the policies encourage a general form and character that is seen as complementary to and compatible with heritage conservation area ideals. This relates not only to building character and materials, but also to the size and scale of buildings in terms of a hierarchical interpretation.

Maintaining and respecting the visual prominence and character-defining importance of heritage landmark buildings (the Empress Hotel) is a key policy objective. Analogous to this goal is the Empress Hotel's function as the organizing centre piece of the harbour, around which smaller, less important buildings form its backdrop. With its large and long horizontal scale and expansive building footprint, the Empress is the literal and figurative centre of the harbour and the design guidelines are drafted to ensure this relationship persists.

Massing

As noted in the concurrent rezoning report, the parcel geometry results in a three sided, flat-iron shaped building, with the bulk of massing shifted toward the north and east property lines. At 12

storeys the proposal is similar in height to the surrounding buildings, however the proposed building length is unique for a building of this height, at approximately 80 metres.

The proposal provides a generous building separation to the residential building to its east and terraces a portion of the building to transition to the lower scale buildings and the public plaza to its south. Aspects of the proposed massing that deviate from policy and that would benefit from refinement are discussed below, under the headings of:

- Protected Views
- Setbacks
- Floor Plate Sizes and Building Length.

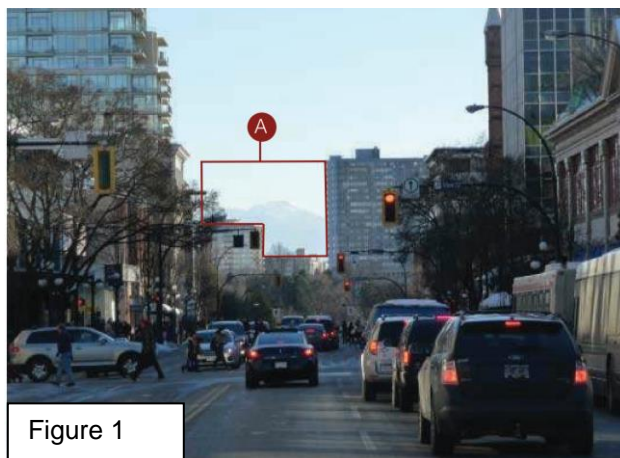
Protected Views

Three protected views, each striving to conserve noted character defining elements within the view corridor, are relevant to the application:

- a view looking south, toward the Olympic Mountains on Douglas Street (View 5)
- a view from Laurel Point across the harbour to the Empress Hotel (View 1)
- a view from Songhees Point across the harbour to the Empress Hotel (View 2).

View from Douglas Street

For the Douglas Street view corridor, the character defining element is the Olympic mountains. The proposed building massing reduces the Douglas Street view by approximately 56% (see Figure 1 below) and results in a requirement for an OCP amendment. It is important to note that, as the underlying zoning does not grant an “as-of-right” ability for a proposal to significantly affect a protected view, this would also be the case for an application that was wholly consistent with the existing zone, but still infringed into this view corridor.

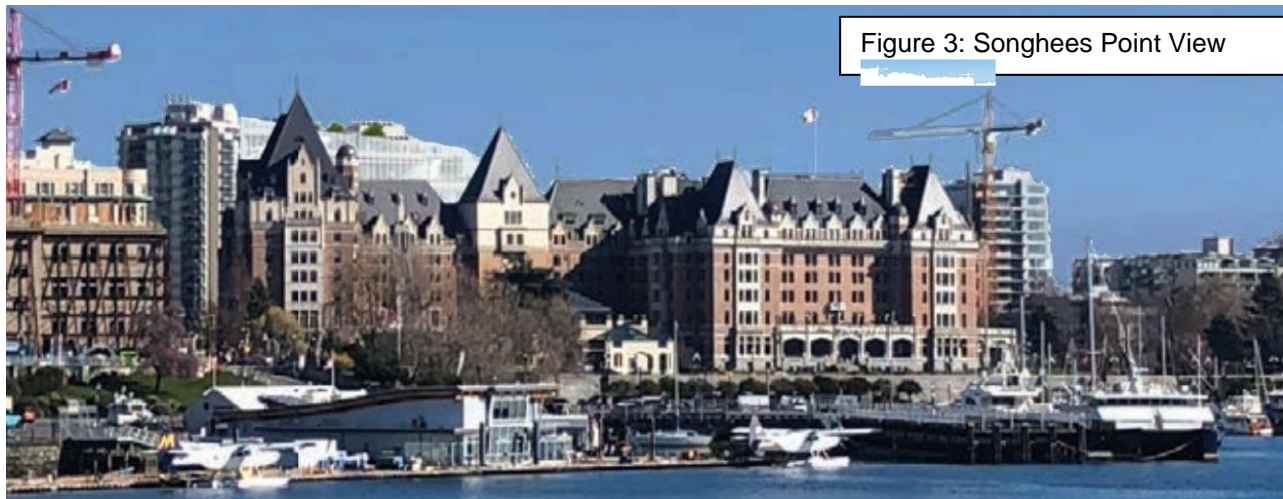
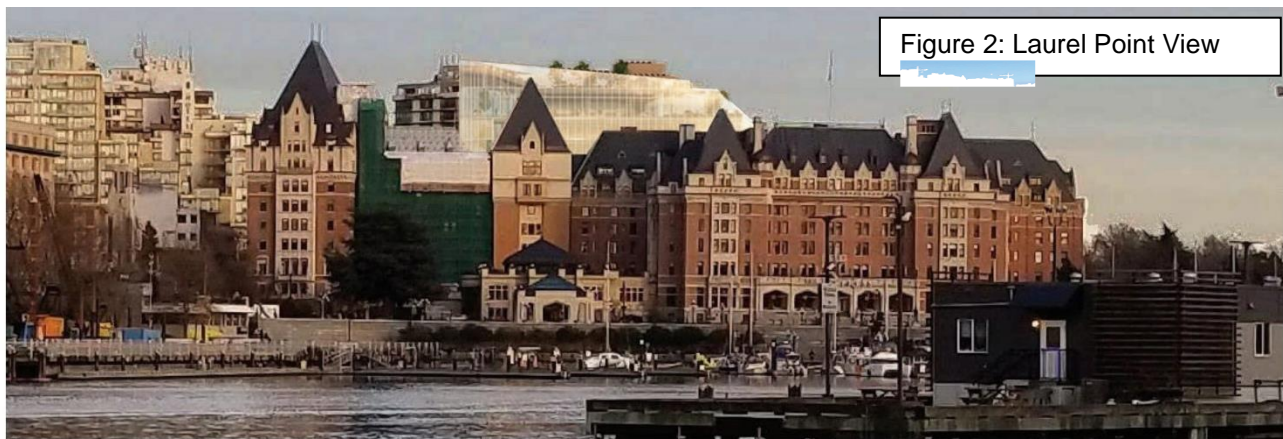


Despite this infringement into the Olympic Mountain view corridor, design changes can alleviate the impact, while still achieving building separation standards. The proposal includes a building separation of 22m to the building to the east, while policy calls for between 3m and 6m. Shifting the proposal by approximately 10m to the east would improve this view corridor, helping frame the view as suggested in the OCP, and maintaining a greater separation distance between buildings than required under policy. It would also free up additional space for street trees at the ground level to further enhance the public realm.

Views from Laurel Point and Songhees Point

From the Laurel Point and Songhees vantage points, the character defining element is the Empress Hotel and its relationship to its context. For these views, the proposal appears above the Empress roofline (see Figure 2 and 3 below), but the actual view is not infringed on or reduced. Some of the DCAP view guidelines that pertain to the relationship between new and existing buildings include:

- maintaining the Empress as the predominant landmark
- ensuring taller background buildings do not overwhelm or detract from the Empress
- ensuring evening building lighting does not detract from the Empress
- maintaining the general moderate scale and visual role of supporting background buildings
- relating building materials and material colours to those of the existing landmark buildings
- providing building articulation, rich detailing, punctuated window rhythm, sympathetic building materials, and relatable building designs.



The ability to maintain the general moderate scale and visual role of supporting background buildings is impacted with the introduction of a large building mass behind the Empress. Blocking the visual diversity behind the Empress with a similarly long building may compete with and diminish the Empress's visual prominence rather than protect it. Reducing the length of building that appears behind the Empress, introducing a taller and narrower massing, similar to the existing background context, or utilizing design strategies to break up the proposed building mass might help to address this condition.

With regard to objectives to ensure lighting does not detract from evening view of the Empress, the applicant has removed the illuminated building logo that was initially proposed to be visible above the Empress roof line. This is of benefit to the protected Laurel Point View, however, given the glass façade and proximity of the proposed building, evening lighting within the building may detract from the architectural lighting of the Empress Hotel.

Setbacks

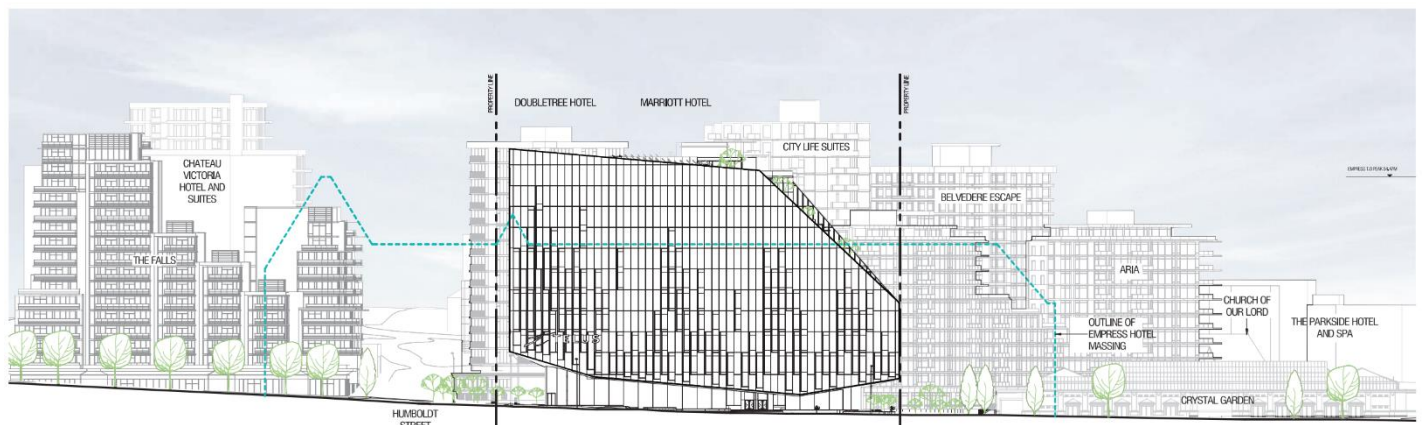
A 5:1 setback plane, above ten metres, establishes a setback line that proposed buildings must not infringe on. The intent of this setback is to mitigate density and height impacts, reduce building bulk of upper storeys, to minimize the effects of shading and wind vortices and to maintain views to the open sky. At the upper most storey, this would result in a setback of nearly nine metres from the property line. As discussed in the rezoning report, the proposal infringes into this setback by seven metres and conflicts with the protected view corridor policies.

The wind study provided (attached) also identifies areas of the pedestrian realm that may experience wind speeds in excess of the safety criteria. As noted, building setbacks (as well as building articulation, wind screens and planting) can mitigate wind vortices. Further refinements to the proposal would help to address this concern.

Floor Plate Sizes and Building Length

The floor plate maximums set out in DCAP are intended to minimize shadowing impacts, to maintain views to the open sky, and to avoid the visual presence of bulky upper building mass. The largest inconsistency with this policy is within the upper storeys of the proposal where the floor plate is 1,420m² (15,280 square feet), exceeding the maximum floor plate size by roughly 440m² (4,700 square feet). Given the triangular parcel geometry, it is not unanticipated that floor plate maximums may be exceeded. The proposed building is also primarily oriented with its long axis running north to south which reduces the shadowing impacts. Given these conditions, the impacts from the floor plate inconsistencies are less of a concern and would be mitigated via adherence to the setback and view corridor policies.

The longest building length occurs along Douglas street, where the proposed frontage is roughly 82m long. To provide a sense of the scale of this frontage, the figure below (Figure 4) illustrates the proposed building within a street elevation on Douglas Street, looking east. Notably, strategies to break up the length of the building or to minimize the apparent scale are absent. While the floor plate inconsistencies are minor, the overall effect of the parcel geometry and proposed massing accentuates the building size.



Form and Character

The DCAP policies also promote human scaled architecture that aims to achieve finer grained detailing, responding to a more traditional streetscape and built form. This typically translates into buildings with frequent entries, vertical building expressions, articulated buildings with recesses or shifts in building plane, or other architectural design approaches to break up long, uniform building lengths. As noted previously, along Douglas Street, the building length exceeds 80 metres without breaks in the massing or changes to the cladding above the ground floor. Improving the application's consistency with this policy intent would not result in significant, if any, impact to the program being proposed.

The applicant has proposed a singular building material, glass, with small undulations in the panels to create a wave pattern. The proposed intent is to provide an unimposing backdrop instead of offering competing texture, grain and varying materiality, while reflecting other nearby buildings.

While the design approach is recognized as unique and consistent with the Ocean theme proposed, it is inconsistent with policies that promote articulated, richly detailed cladding with similar materials to the adjacent heritage buildings. Window bays, vertical or horizontal banding or other architectural gestures, that emulate classical architectural proportions, are also not present. It is these features that create the picturesque quality of the Inner Harbour, that the policy encourages to create a contextual fit and to maintain the character of the area.

Given that the unique parcel geometry and the density sought result in a mass and built form that is unique to the area, an entirely glass clad approach emphasizes the scale and mass of the building and its overall inconsistency with the relative context. There are also concerns about the reliability of intended outcomes of an entirely glass clad building. While the objective is to have the building reflect the context, provide a uniform backdrop and/ or disappear into the background, instead this cladding approach may appear as a large mass when lighting conditions result in high reflectivity or when illuminated at night.

Finally, the applicant is proposing a digital display screen, facing the south plaza area. The primary purpose of it is as a digital art installation and a community event notice board, similar to a previous installation in Calgary. While the applicant has offered to enter into an agreement with the City to regulate its usage and content, City policies typically do not support digital, illuminated display screens and call for signage to respect the general character of the signs in the immediate vicinity. The orientation of this screen has been amended to reduce the potential lighting impacts to the adjacent residential building, however, light reflection and illumination impacts remain a concern. Digital display screens in a heritage conservation area also conflict with the character of the area and as such the staff recommendation is to omit this feature.

Climate Change and Energy

Both the OCP and the DCAP include policies related to climate change and the environment, and while those policies are not specifically referenced in the Development Permit Area guidelines, there is a symbiotic relationship between the design approach and sustainable building designs. The application proposes to meet Step Code 2 of the BC Building Code, which is the existing minimum level of energy efficiency that is currently required by code. However, the applicant has indicated that green building technologies, including on-site renewable energy and energy efficient technology, are proposed and that they believe they can achieve a higher step code. Additionally, a number of third-party certifications are being pursued, but have not been secured.

These include:

- CaGBC's Zero Carbon Building Program
- LEED V4 (Platinum)
- Well Building Standard Core and Shell
- Salmon Safe BC
- Step 3 of the BC Building Code.

The staff recommendation includes wording to secure the BC Building Code, Step 3 commitment, which the applicant has indicated they believe they can achieve.

Landscaping

Consistent with Development Permit Area goals for DPA 9 (HC) Inner Harbour, this proposal would enhance the public realm with a high-quality landscape and planned improvements to the two existing plazas that border the site. This includes innovative and unique seating and street furniture, and a consistent surface treatment for the larger area. Landscaping within the private property also includes an undulating water feature between the edge of the building and sidewalk that in places seems to curve into the building appearing inside the building lobby. Additional seating is provided alongside the water feature that can double as covered seating for transit users. It would be important this area and use of seating be legally secured to ensure it remains available for public use. Additionally, a planted, sloping landscape feature is proposed along the eastern property line, above the underground car parking entry. This area provides a widened access to the south plaza area and would benefit from a legal mechanism to secure its use as a public pathway.

Tree planting

As noted in the concurrent Rezoning and OCP Amendment report, the public realm improvements stop short of the entire parcel frontage and opportunities exist to realize additional policy objectives for increased tree canopy and water/ play elements.

Incorporating these additional considerations would create an exemplary public realm and be a positive contribution to the Downtown area. It would also provide a strong rationale to consider the OCP amendment for additional density at this location. As such, the staff recommendation includes appropriate wording should council wish to encourage these changes.

Regulatory Considerations

The application requires a total of five variances. The variances are to:

- increase the height from 43m to 53m
- reduce the interior (south west) side yard setback from 4.5m to 0m
- reduce the interior (south east) side yard setback from 4.5m to 4.00m
- remove the requirement for a 1:5 setback plane on Douglas Street and Humboldt Street
- reduce the required number of vehicle parking stalls from 221 to 127.

It is recommended that these differences from the standard zone be addressed through the Development Permit process rather than being entrenched in a new zone so that in the event this proposal is not built, any future proposals that deviate from the standard requirements, would need to be considered and ultimately approved by Council.

Height, Siting and Massing Variances

As noted in the above analyses and the staff recommendation, further refinements are recommended to mitigate the impacts of the proposed massing and to reduce the infringement into the protected view corridor. Adherence to the setbacks would also improve the consistency with the objectives to conserve the character defining elements within the view corridors.

Parking Variance

As the parking variance would have little effect on the public right of way, this variance is supportable, if paired with appropriate TDM programs. The area is surrounded by existing parking meters and other time limitations on parking, and the reduced parking supply helps to protect the Humboldt Street AAA bike route. This location is also well located to take advantage of the available public transit system, walking and cycling. Staff recommend that to help reduce the impacts of a potential parking shortfall and advance OCP transportation mode targets, 94 bus passes (EcoPasses) are provided to future employees for a minimum of a three-year term. Appropriate wording to this effect is provided in the main motion.

Advisory Design Panel

At a meeting of the Advisory Design Panel (ADP) on September 23, 2020, the ADP reviewed this application and recommended that the Development Permit Application be approved with the following changes:

- commitment that the south plaza be redeveloped as part of the project
- reduce or lower signage on the waterfront side
- warmer pallet included on soffit particularly at the north entrance.

In response to the ADP motion, the west facing sign has been lowered to below the Empress roofline, a wood panel soffit has been added and confirmation has been provided that the south plaza will be redeveloped.

CONCLUSIONS

The parcel geometry and size, combined with the amount of density proposed, have created a building mass that is challenging to sensitively distribute on the site. The flat and singular design aesthetic results in a sculptural and iconic building; however, this approach also emphasizes the scale of the building within an area that seeks sensitive infill. The prevailing policy calls for a modified building in terms of its form and character and a number of changes would improve the relationship of the proposed building to the heritage context and view corridors. This includes material selections, building articulation and detailing and an overall less conspicuous aesthetic concept. A design approach that is more consistent with policy and complementary to the character of the area would also not drastically affect the proposed programme.

On this basis, it is recommended that the application be referred back to staff to work with the applicant. However, should Council wish to move the application to a public hearing as currently proposed, an alternate motion is provided is provided for consideration.

ALTERNATE MOTION ONE (advance application as is)

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No.00746, if it is approved, consider the following motion:

“That Council authorize the issuance of Development Permit with Variance Application No. 000155 for 749-767 Douglas Street, in accordance with:

1. Plans date stamped December 4, 2020.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. Reduce the interior south west setback from 4.5m to 0m;
 - ii. Reduce the interior south east side yard setback from 4.5m to 4.0m
 - iii. Increase the height to 53m;
 - iv. Relax the requirement for a 1:5 setback ratio from Douglas Street and Humboldt Street
 - v. Reduce the required number of vehicle parking stalls from 221 to 127.
3. The Development Permit lapsing two years from the date of this resolution.”

ALTERNATE MOTION TWO (decline)

“That Council decline Development Permit with Variances Application No. 000155 for 749 to 767 Douglas Street.”

Respectfully submitted,

Miko Betanzo
Senior Planner - Urban Design
Development Services

Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped December 4, 2020
- Attachment D: Application Brief and letter to Mayor and Council , dated July 20, 2020
- Attachment E: Pre-Application Consultation Comments from Online Feedback Form
- Attachment F: CALUC letter dated February 26, 2021
- Attachment G: Arborist Report dated December 18, 2020
- Attachment H: Transportation Impact Assessment Report, dated January 28, 2021
- Attachment I: Pedestrian Wind Assessment, dated August 24, 2020
- Attachment J: Correspondence (Letters received from residents).
- Attachment K: Property Notice of Disposition.
- Attachment L: Minutes from the September 23, 2020 Advisory Design Panel meeting.