



Committee of the Whole Report For the Meeting of September 9, 2021

To: Committee of the Whole **Date:** August 17, 2021

From: Karen Hoese, Director, Sustainable Planning and Community Development

Subject: **Rezoning Application No.00746, Development Permit with Variances Application No. 000155 and associated Official Community Plan Amendment for 749-767 Douglas Street**

RECOMMENDATION

That subject to minor plan amendments to illustrate the landscaping approach for the Humboldt Street Plaza and to update the seating, ramping and curb alignment changes on the Douglas Street frontage, that Council instruct staff to prepare the necessary Official Community Plan Amendment Bylaw in accordance with Section 475 of the *Local Government Act* and the necessary Zoning Regulation Bylaw Amendments that would authorize the proposed development outlined in Rezoning Application No.00746 for 749-767 Douglas Street, that first and second reading of the Zoning Regulation Bylaw Amendments be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Preparation of legal agreements, executed by the applicant, in a form to the satisfaction of the City Solicitor to secure:
 - i. statutory right-of-way along Humboldt Street to accommodate public vehicle turn-around movements;
 - ii. off-site public furniture maintenance agreement to secure the ongoing maintenance of unique street furniture over a period of ten years;
 - iii. statutory right-of-way along Douglas Street to include seating and weather protection **of a sufficient size and area to accommodate anticipated transit demand on this future rapid bus corridor and station and 5.5m clear pedestrian passage;**
 - iv. statutory right-of-way to secure the through block access path proposed along the east property boundary;
 - v. public realm improvements as indicated on the plans dated June 17, 2021 (including tree grates, soil cells, and revised Douglas Street frontage and Humboldt Plaza landscaping);
 - vi. sustainability and active transportation features identified in the staff report and as committed to by the applicant, including provision of a minimum of 94 BC Transit EcoPasses for a three-year period;

- vii. commitment to achieve Step Code 3 of the British Columbia Building Code.
 - viii. commitment to **ensuring public access to the building lobby.**
2. That Council give first reading to the Official Community Plan Amendment Bylaw.
 3. That Council consider the Official Community Plan Amendment Bylaw in conjunction with the City of Victoria 2017-2021 Financial Plan, the Capital Regional District Liquid Waste Management Plan and the Capital Regional District Solid Waste Management Plan pursuant to Section 477(3)(a) of the *Local Government Act* and deem those Plans to be consistent with the proposed Official Community Plan Amendment Bylaw.
 4. That Council give second reading to the Official Community Plan Amendment Bylaw.
 5. That Council refer the Official Community Plan Amendment Bylaw for consideration at a Public Hearing.
 6. That Council authorize the Mayor and City Clerk to execute encroachment agreements, to be executed at the time of the building permit approval, if the other necessary approvals are granted, in a form satisfactory to the City Solicitor and the Director of Engineering and Public Works for anchor-pinning in the City Right-Of-Way.
 - 7. That the north facing sign be lowered to mitigate intrusion into the Douglas Street view corridor.**

Development Permit with Variances Application No. 000155

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 June 17, 2021.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - a. Reduce the interior southwest setback from 4.5m to 0m;
 - b. Reduce the interior southeast side yard setback from 4.5m to 4.0m;
 - c. Increase the height to 53m;
 - d. Relax the requirement for a 1:5 setback ratio from Douglas Street and Humboldt Street;
 - e. Reduce the required number of vehicle parking stalls from **205 to 116.**
3. The Development Permit lapsing two years from the date of this resolution.”

LEGISLATIVE AUTHORITY

In accordance with Section 479 of the *Local Government Act*, Council may regulate within a zone the use of land, buildings and other structures, the density of the use of the land, building and other structures, the siting, size and dimensions of buildings and other structures as well as the uses that are permitted on the land and the location of uses on the land and within buildings and other structures.

In accordance with Section 482 of the *Local Government Act*, a zoning bylaw may establish different density regulations for a zone, one generally applicable for the zone and the others to apply if certain conditions are met.

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 updated information, analysis and recommendations for a Rezoning Application, an Official Community Plan Amendment and a Development Permit with Variances Application for the property located at 749-767 Douglas Street. The proposal is to rezone from the CA-4 Zone, Central Area Commercial Office District to a site-specific zone to increase the density from 3:1 to 5.2:1 floor space ratio (FSR) for an office building with ground floor commercial uses. An Official Community Plan Amendment is required to change the Urban Place Designation from Inner Harbour / Legislative to Core Business to accommodate the proposed density and to reduce the view corridor on Douglas Street. The updated variances are to:

- increase the height from 43m to 53m
- reduce the interior (southwest) side yard setback from 4.5m to 0m
- reduce the interior (southeast) 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 205 to 116.

Following the Committee of the Whole (COTW) meeting of March 11, 2021, and the subsequent OCP referral, the applicant made revisions to their plans which are outlined in this report, along with a summary of the OCP notification feedback. As a result, minor revisions to the motion have also been updated within the recommended motion above (highlighted in bold).

BACKGROUND

Council ratified the following motion on March 18, 2021:

“Rezoning Application No. 00746 and Associated OCP Amendment

1. Council, having put their minds to the OCP Amendment considerations outlined in Alternate Motion 1 of the staff report dated February 25 2021 and that subject to resolution of outstanding site servicing, tree preservation and tree replacement issues, the removal of the digital screen and that subject to extending the Humboldt Street Plaza Street to Penwill Street and adding a water/play feature to the satisfaction of City staff, that Council instruct staff to prepare the necessary Official Community Plan Amendment Bylaw in accordance with Section 475 of the *Local Government Act* and the necessary Zoning Regulation Bylaw Amendment(s) that would authorize the proposed development outlined in Rezoning Application No.00746 for 749-767 Douglas Street, that first and

second reading of the Zoning Regulation Bylaw Amendments be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Preparation of legal agreements, executed by the applicant, in a form to the satisfaction of the City Solicitor to secure:
 - i. a statutory right-of-way along Humboldt Street to accommodate public vehicle turn-around movements;
 - ii. off-site public furniture maintenance agreement to secure the ongoing maintenance of unique street furniture over a period of ten years;
 - iii. a statutory right-of-way along Douglas Street to include the seating and weather protection and the building face;
 - iv. a statutory right-of-way to secure the through block access path proposed along the easter property boundary;
 - v. public realm improvements as indicated on the plans dated December 4, 2020 and the extension of the Humboldt Street Plaza to Penwill Street along with a water / play feature;
 - vi. sustainability and active transportation features identified in the staff report and as committed to by the applicant, including provision of a minimum of 94 BC Transit EcoPasses for a three-year period;
 - vii. a commitment to achieve Step Code 3 of the British Columbia Building Code.
 - viii. a commitment to ensuring community use space in the building.
2. That Council determine, pursuant to section 475(1) of the Local Government Act that the affected persons, organizations and authorities are those property owners and occupiers within a 200m radius of the subject properties; that the appropriate consultation measures would include a mailed notice of the proposed OCP Amendment to the affected persons; posting of a notice on the City's website inviting affected persons, organizations and authorities to ask questions of staff and provide written or verbal comments to Council for their consideration.
3. That Council, having provided the opportunity for consultation pursuant to Section 475(1) of the *Local Government Act* with persons, organizations and authorities it considers will be affected, specifically, the property owners and occupiers within a 200m radius of the subject properties have been consulted at a Community Association Land Use Committee (CALUC) Community Meeting, consider whether the opportunity for consultation should be early and ongoing, and determine that no further consultation is required.
4. That Council, specifically consider whether consultation is required under Section 475(2)(b) of the *Local Government Act*, and determine that no referrals are necessary with the Capital Regional District Board, Councils of Oak Bay, Esquimalt and Saanich, the Songhees and Esquimalt First Nations, the School District Board and the provincial and federal governments and their agencies due to the nature of the proposed amendment.
5. That Council give first reading to the Official Community Plan Amendment Bylaw.
6. That Council consider the Official Community Plan Amendment Bylaw in conjunction with the City of Victoria 2017-2021 Financial Plan, the Capital Regional District Liquid Waste Management Plan and the Capital Regional District Solid Waste Management Plan pursuant to Section 477(3)(a) of the *Local Government Act* and deem those Plans to be consistent with the proposed Official Community Plan Amendment Bylaw.
7. That Council give second reading to the Official Community Plan Amendment Bylaw.
8. That Council refer the Official Community Plan Amendment Bylaw for consideration at a Public Hearing.
9. That Council authorize the Mayor and City Clerk to execute encroachment agreements, to be executed at the time of the building permit approval, if the other necessary

approvals are granted, in a form satisfactory to the City Solicitor and the Director of Engineering and Public Works for:

- a. anchor-pinning in the City Right-Of-Way.
10. That Council request the applicant provide detailed explanation of how they are planning to ensure bird-friendly design;
11. That Council request that the application lower the north facing sign to mitigate intrusion into the Douglas Street view corridor.

Development Permit with Variances Application No. 000155

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:
 - a. Reduce the interior southwest setback from 4.5m to 0m;
 - b. Reduce the interior southeast side yard setback from 4.5m to 4.0m;
 - c. Increase the height to 53m;
 - d. Relax the requirement for a 1:5 setback ratio from Douglas Street and Humboldt Street;
 - e. 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.”

In response to the Council motion, the applicant provided plans to the City on May 31, 2021 that resolved the outstanding site servicing, tree preservation and tree replacement issues, removed the digital screen and extended the Humboldt Street Plaza to Penwill Street. The applicant also explored adding a water/play feature and proposed an in-ground, motion activated light display that emulates a water pattern.

The OCP notification that referenced these revised plans was sent on June 4 and the comment period ended on July 5, 2021.

The applicant provided an additional plan update to the City on June 17, 2021 that proposed further changes to the application that are outlined later in this report.

Official Community Plan Referral

As noted, the OCP Amendment notification was sent on June 4 and the comment period ended on July 5, 2021. Of the 57 responses received, two indicate they are in favour of the proposal and 55 indicate opposition or concern. Those in favour of the application noted the economic boost it could provide to the city and revitalization of the area as reasons for their support. The responses for those opposed generally identified the following as areas of concern:

- too large, overwhelms/ dominates the area, too tall
- does not fit with the character of the area
- detrimental impact to the surrounding heritage and inner harbour context
- blocks views for the surrounding hotel patrons and residential buildings
- blocks the protected view of the Olympic Mountains

- traffic impacts
- wind and sunlight access
- bird collision impacts due to the large expanses of glass.

A number of comments received also expressed an appreciation for the design, however, in each case respondents noted that the location seemed inappropriate given the size of the application and the surrounding Inner Harbour context.

Plan Changes

Council's motion at the March 11, 2021 COTW meeting directed the applicant to correct outstanding site servicing, tree preservation and tree replacement issues, remove the digital screen, extend the Humboldt Street Plaza and to add a water/play feature prior to commencing with the OCP Amendment notification process. The applicant made these changes and the OCP Amendment was referred to owners and occupiers of properties within 200 metres of the subject site referring to the plans that reflected Council's motion.

Additional plan changes were provided to the City on June 17, 2021 in response to the anticipated OCP Amendment referral feedback. These plan changes included:

- reducing the project density from 5.47 to 5.2 FSR
- rotating the building 4.5m off the north end of the west (Douglas Street) property line to reduce the intrusion into the view corridor
- expanding and reconfiguring the public realm and sidewalk area on Douglas Street
- refining the Humboldt Street Plaza extension and reconfiguring portions of the south plaza
- revising exterior materials
- reducing the requested vehicle parking variance from 94 stalls (originally 221 stalls were required and 127 stalls proposed) to 89 stalls (205 required and 116 proposed).

ANALYSIS

The following sections describe the proposed plan changes in more detail and provides a brief analysis of the associated outcomes and impacts.

Density

The reduction in density is the result of reduced floor plates and enlarged floor openings. The enlarged floor openings provide double height areas within the building, which reduce the floor area, but do not reduce the building shell or overall massing. However, the length of each of the three walls that comprise the building have been reduced in length by roughly two metres.

Staff continue to have concerns with the density proposed and its architectural expression, which generally emphasizes the scale of the building. Design strategies outlined in DCAP promote building articulation, increased contextual sensitivity, complementary architecture and richly detailed cladding with similar materials and proportions to the adjacent heritage buildings. These design approaches help to reduce perceived scale and density impacts and should be considered for buildings within heritage conservation areas and heritage landmark building radii.

View Corridor and Building Rotation

The proposed building rotation reduces the impact of the building on the Douglas Street view corridor by rotating the north prow of the building so that the actual infringement is less abrupt and the most impactful portions of the building that infringe on the view are farther away from the Douglas and Yates Street vantage point, outlined in the Downtown Core Area Plan (DCAP). However, the amount of building that infringes into the view corridor is generally the same. Image 1 illustrates the building rotation.

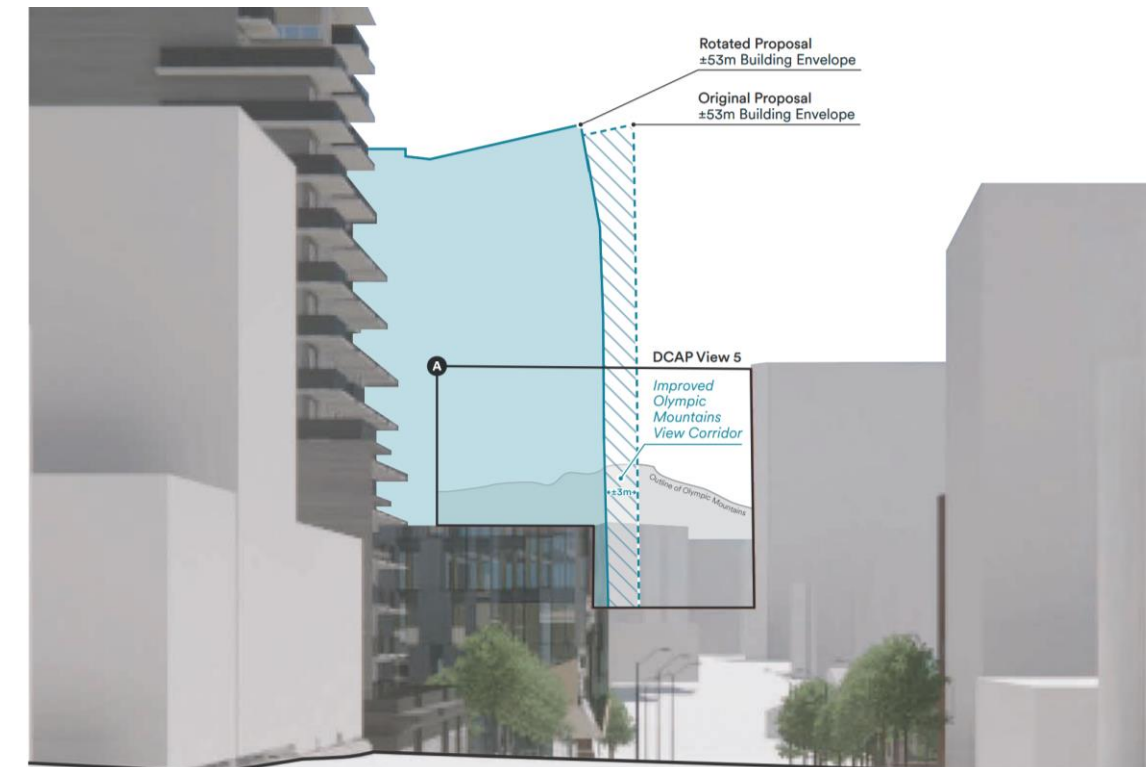


Image 1: View Corridor Change

The building rotation also reduces the building separation to the residential building to the east, however all minimum building separation distances recommended in the DCAP guidelines are still exceeded. The setback to the east property line has been reduced from 16.2m to 13.2m at the north end of this property line and from 14m to 13.7m at the south end of the property line (see image 2). DCAP policies recommend a minimum setback to the property line of 0m up to an elevation of 20m, then 3m up to an elevation of 30m and finally 6m for portions of the building above 30m in height. The proposed building height is 53m in height.

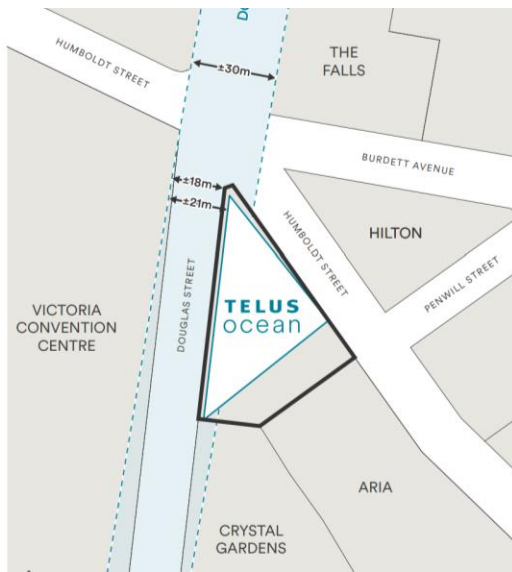
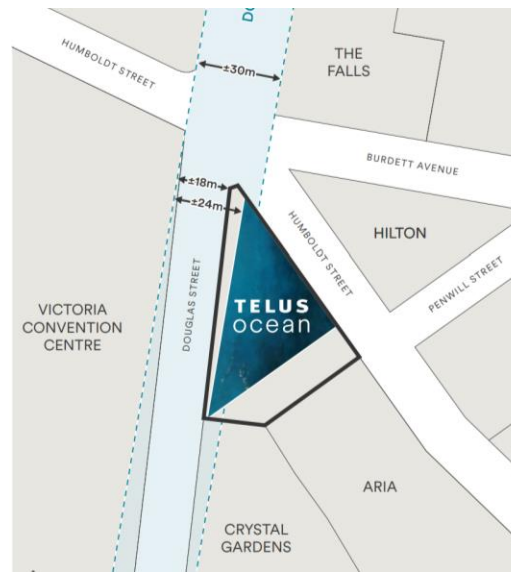


Image 2: Building Rotation (original)



(Current: rotated)

Douglas Street Public Realm

The plan changes along Douglas Street have increased both the amount and quality of the public realm. The sidewalk widths have been increased because of the building rotation and three street trees can now be accommodated, where previously there were none.

Douglas Street is designated as a Rapid Bus corridor with this specific location anticipated to be a future Rapid Bus “station”. Integrated transit-supportive features are therefore important to achieve through this significant development proposal. With the anticipated transit capacity identified by BC Transit, staff have recommended that a statutory right-of-way (SRW) be provided to ensure a comfortable, functional and high-quality streetscape providing space for transit pickup and drop off, landscaping, weather protected seating for up to 60 people integrated into the design of the building frontage while maintaining space for the through pedestrian movement on the sidewalk. The additional transportation demand generated by this proposal also aligns with the need for a high-quality, functional and accessible pedestrian environment as well as comfortable passenger amenities consistent with the approved regional Rapid Bus Implementation Strategy. The staff recommendation includes amended language to secure this requirement.

The proposed configuration, while providing adequate space to accommodate the different uses of the public realm in this location, only offers partial weather protection for seating. Increased weather protection is recommended to be provided at this location, beyond what the applicant is currently proposing. An awning or other architectural feature that increases the covered area for transit patrons would help to ensure a comfortable and fully integrated public realm experience. The alternative recommendation provides language to this effect should Council wish recommend further design changes.

Plaza Areas

The extension of the Humboldt Street Plaza has unified the public realm treatment around all frontages of the proposed building. Beyond just providing a larger plaza area, the extension of this plaza will advance placemaking and wayfinding by visually delineating areas for different

uses and by providing tactile and physical cues consistent with best practices is accessible design for the built environment.

The revised recommendation provides language for further plan changes to the Humboldt Street Plaza landscaping. Because existing underground utilities in the area make suitable tree locations difficult to confidently confirm at this stage of the design and review process, staff have directed the applicant to provide a “least optimum” scenario landscaping plan. The “least optimum” plan is intended to reflect an acceptable landscaping design if feasible tree locations cannot be established, allowing the applicant to carry out more detailed design and exploratory excavation of the roadway. The recommended plan changes also direct the applicant to commit to providing, at a minimum, eighteen street trees or to provide a cash in lieu contribution if feasible locations cannot be established.

Minor changes are also proposed for the south plaza area. These changes include refinements to the seating platform and tree locations and introduction of clustered, interactive, in-ground lighting. These clustered marker lights are proposed to be activated by motion sensors as pedestrians walk across the plaza, evoking the effect of the bioluminescence in the ocean and are designed to minimize light pollution. The planted area and the stage platform are also expanded to incorporate a stormwater and infiltration planter to collect the rainwater run-off from plaza’s paved surface.

Exterior Materials

Exterior Materials

Minor changes have been proposed for the south terraces which include solar-shading devices and plants to address heat gain concerns. Similar solar shading devices and plantings are also proposed as material changes on the west and north building elevations. Staff continue to have concerns with the application’s consistency with policies that address form and character within heritage landmark building radii and, more generally, within heritage conservation areas. Should Council wish to encourage further building material changes, the alternative motion provides appropriate wording.

Bird Design

At the March 11, 2021 COTW meeting, Council discussed the potential to address possible bird collisions into the building. The applicant’s approach to mitigate bird collision concerns is attached to this report in an information sheet as part of the building material changes proposed. The design strategies identified include:

- improving glass visibility with glass frit and UV filters which are more visible to birds
- locating large plantings near areas of glazing
- controlling and minimizing lighting which can act as avian attractants.

The City of Victoria is currently developing best practice bird friendly design guidelines, however, at present the City does not have policies to provide this guidance. Typically, bird friendly design guidelines promote reducing the amount of glazing first, and then other strategies such as managed lighting, window decals and frit are suggested. To reduce the potential bird collision impact of the proposed building, further reductions to the amount of glazing would be warranted, and the alternative recommendation provides language should Council wish recommend further design changes.

Parking Variance

As a result of reducing the floor area associated with the building, the required number of parking stalls has also reduced from 221 to 206. In turn, this reduces the requested parking variance from a shortfall of 94 stalls to 89 stalls. While this is a significant variance, given the expanded commitment to transit and public realm integration on Douglas Street in particular, as well as 94 bus passes for the first three years after building occupancy, staff recommend that this parking variance is supportable. An expanded awning or additional architectural features to provide improved weather protection for pedestrians and transit passengers would provide further support for the variance.

CONCLUSION

The plan changes recommended as part of the Council motion from the March 11, 2021 COTW have been made and additional plan changes are proposed which improve the public realm extent and design. Additionally, the infringement into the Douglas Street view corridor has been reduced. Given these changes, the applicant has satisfied the requirements of the motion provided by Council and may now advance to a public hearing, subject to satisfying the conditions for the preparation and execution of required legal agreements.

ALTERNATE MOTION

That Council refer Rezoning Application No. 00746 and Development Permit with Variances Application No. 000155 for the property located at 749-767 Douglas Street back to staff to work with the applicant to:

1. improve its consistency with the Heritage Conservation area and Landmark Building form and character design guidelines and siting and massing policies,
2. reduce the amount of glazing or introduce additional design features to address bird collision concerns, and
3. improve the weather protection for pedestrians and passengers to support rapid transit objectives on 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 June 17, 2021
- Attachment D: "Designing for Birds" information sheet
- Attachment E: OCP Notification community feedback emails
- Attachment F: Rezoning Report March 11, 2021
- Attachment G: Development Permit with Variance Report March 11, 2021.