



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

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**To:** Committee of the Whole **Date:** February 25, 2021

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

**Subject:** Rezoning Application No.00746 for 749-767 Douglas Street and Associated Official Community Plan Amendment

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### 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 undertake a land lift analysis and reduce the infringement into View 5: Olympic Mountains from Douglas Street by setting the building back approximately 10m from the west property line; and
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 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.

### EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Rezoning Application and an Official Community Plan Amendment 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 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 and to reduce the view corridor on Douglas Street.

The following points were considered in assessing this application:

- The proposal is consistent with the objectives of the *Official Community Plan, 2012* (OCP) and *Victoria 3.0* (2020) related to increasing the supply of office space, economic revitalization, and jobs in the Core Inner Harbour/Legislative Urban Place Designation.
- The proposal exceeds the density envisioned for the Inner Harbour/Legislative Urban Place Designation by 37% and an OCP amendment is sought to accommodate the proposed density increase.
- The proposal reduces the protected Olympic Mountain view from Douglas Street by approximately 56%, and an OCP amendment is required to accommodate this change.
- The proposed density, massing and design poses challenges to the heritage landmark building radius policies included in the OCP and DCAP, which generally seek to promote deferential or complementary design approaches that respond to the heritage context.
- The application proposes upgrades to the public realm with improvements to two existing plaza areas. These improvements would advance a number of the City's public realm goals and objectives, and the staff recommendation encourages expanding the treatment and extent of the plaza areas to include additional trees and water/play elements to better align with the environmental and community well-being goals outlined in the OCP.
- Narrow road widths, building siting and utility conflicts result in the removal of street trees, without an ability to replace them for the length of the property on Douglas Street; further refinements to these aspects of the proposal, may facilitate street tree replacements.
- While the proposed Transit Demand Measures (TDM) will not likely be sufficient to offset the requested parking variance:
  - there would be 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 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.
- The *Downtown Core Area Plan, 2011* (DCAP) identifies the property within the Special Density Area which requires an evaluation of the additional density sought against the public benefits and amenities offered. Further, amendments to the OCP require a third-party land lift analysis to assess the value of the proposed density in relation to proposed community amenities. Therefore, the staff recommendation includes wording that a land lift analysis be completed.

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 to the application, 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**

This Rezoning application for 749-767 Douglas Street, is to allow for an increase in the permitted density on this site to construct an office building with ground floor commercial uses.

The following differences from the current zone are being proposed:

- increase the density from 3:1 floor space ratio (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.

An amendment to the *Official Community Plan, 2012* (OCP) is required to increase the maximum density envisioned for this location. The current Urban Place Designation contemplates densities up to 4.0:1 FSR and the proposal is for 5.47:1 FSR. Additionally, an OCP amendment is required to reduce the protected public view of the Olympic Mountains along Douglas Street (View 5).

### **Sustainability**

The applicant has indicated that the following sustainability features will be included with this application:

- harvested and recycled rainwater
- on-site renewable energy production through photo-voltaic panels
- roof top and deck landscaping and trees
- solar shading devices on the south elevation
- targeted (but not secured) third-party certifications including: CaGBC's Zero Carbon Building Program, LEED V4 (Platinum), Well building Standard Core and Shell; and Salmon Safe BC, as well as Step 3 of the BC Building Code.

### **Active Transportation**

The proposal includes the following features which support active transportation:

- five additional long term bicycle parking stalls
- electric outlets supplied for a portion of the bicycle parking spaces and roughed-in electrical conduits to allow for further additional charging ability if demand increases
- end of trip active transportation facilities on the second floor, including showers and lockers.

## Public Realm

The following public realm improvements are proposed in association with this rezoning application, noting there are additional features proposed on the site itself, discussed in the Development Permit report under Landscaping:

- extensive unique paving within two existing plaza areas at the north and south of the site
- sculptural seating and seating platforms.

## Accessibility

In addition to meeting the British Columbia Building Code which regulates accessibility as it pertains to buildings, in terms of the public realm, the proposed inset ground floor on Douglas Street provides an increased and covered sidewalk area as well as an overall reduction and reorganization of street furniture. This creates clearer pedestrian pathways, free of obstacles and improved accessibility on this frontage.

## Land Use Context

The area is characterized by one of Victoria's most substantial landmark buildings, the Empress Hotel, which generally defines Victoria's Inner Harbour, along with the Parliament Building and CPR Steamship Terminal. Considered as one of the four gateways into the downtown core, surrounding land uses include residential apartments, hotels, tourist facilities, restaurants, and ground floor commercial uses. Three different Urban Place designations also converge at this location: Core Historic, Core Business and Inner Harbour/Legislative. Immediately adjacent land uses include:

- North – 13-storey Falls condominium building and the six-storey Nootka Court commercial building
- South – an existing City plaza and the two-storey Crystal Gardens
- East – 13-storey Aria condominium building and the 16-storey Hilton Hotel
- West – the Victoria Conference Centre and the Empress Hotel.

## Existing Site Development and Development Potential

The site is presently a car rental lot with two small single-storey offices.

Under the current CA-4 Zone, Central Area Commercial Office District, the property could be developed up to a density of 3:1 FSR and a height of 43m. Permitted uses include offices, multi-family residential, transient accommodation, hospitals, and a variety of other uses.

Under the policies of the *Official Community Plan, 2012 (OCP)*, and the Urban Place Designation of Inner Harbour/Legislative, densities of up to 4:1 FSR and heights up to 45m could be considered through a rezoning application.

## 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	<b>5.47*</b>	3.0	4.0	4.0
Total floor area (m <sup>2</sup> ) – maximum	<b>14,135.62*</b>	7,745.85	10,327.8	10,327.8
Height (m) – maximum	<b>52.92*</b>	43.0	45	45
Storeys – maximum	12	n/a	15	11
<b>Setbacks (m) – minimum</b>				
Street Massing (Douglas) 1:5 setback above 10m	<b>2*</b>	8.6		
Street Massing (Humboldt) 1:5 setback above 10m	<b>0*</b>	8.6		
Interior (south west)	<b>0*</b>	4.5		
Interior (south east)	<b>4.05*</b>	4.5		
<b>Parking – minimum</b>				
Visitor parking included in the overall units – minimum	<b>127*</b>	221		
<b>Bicycle parking – minimum</b>				
Long Term	100	95		
Short Term	41	41		

## Relevant History

The site is currently owned by the City of Victoria. The City and the purchaser have entered into an Agreement of Purchase and Sale, pursuant to which the City, as vendor, has agreed to sell to the purchaser the property located at 749-767 Douglas Street. The Agreement expressly provides that it does not affect or limit the discretion, rights, duties or powers of the City and does not create any implied obligations concerning such discretion, rights, duties or powers. Also, under the Agreement, the adoption of any bylaw or passage of any resolution in connection with any of the conditions under the Agreement shall be within the absolute and unfettered discretion of Council and the provisions of this Agreement will not in any way obligate

the Council to adopt such bylaws or pass such resolutions. The public notice of disposition for the property is attached for reference.

## **Community Consultation**

Consistent with the alternative approach to *Community Association Land Use Committee (CALUC)* procedures for processing rezoning and variance applications during COVID-19, notification for an on-line comment period was sent to properties within 200m of the subject site. The comment period was open for 30 days and ended on November 2, 2020. The comment forms and a letter from the Downtown CALUC executive is attached.

A total of 122 comment forms were received, both in support and opposed to the application. Key issues raised (103) related to:

- height, massing and bulk of the building, overwhelming presence
- building design that is incongruent or out of character for the area
- traffic impacts
- light and noise impacts associated with the digital display screen
- glass cladding of the building and its reflectivity, illumination at night and bird strike hazard
- impacts on residential and hotel views and privacy.

Aspects of the application that were positively received (19) included:

- improved use of the existing site (currently a parking lot)
- exciting architecture and design
- added economic vibrancy.

## **ANALYSIS**

This analysis focuses on the proposed density increase and the reduction of the view corridor, which are the main issues for Council's consideration in relation to the *Official Community Plan, 2012 (OCP)* and *Zoning Regulation Bylaw* amendments.

The policies that relate to this evaluation are relevant to both Development Permit (DP) and Rezoning considerations and the same policies are considered in both reports. As density expresses itself in many aspects of the building form, other factors related to the proposed design of the building are taken into consideration. This approach recognizes that form and character changes can influence the impact of density and vice versa.

The following City policies have been considered in the analysis of the Rezoning and OCP Amendment Applications: *Official Community Plan (2012)*, *Downtown Core Area Plan (2011)*, and the *Inclusionary Housing and Community Amenity Policy (2019)*, *Victoria 3.0 - Recovery Reinvention Resilience (2020-2041)*.

## **Official Community Plan Amendment Application**

There are two amendments to the *Official Community Plan (OCP)* that are necessary to accommodate this proposal:

- to change the Urban Place Designation from Core Inner Harbour/Legislative to Core Business to achieve a higher density office building at this location

- to redefine Public Outward View 5 to allow infringement into the view corridor along Douglas Street of the Olympic Mountains.

Specific policies in the OCP address how, and by what rationale, amendments should be considered by Council. While the OCP is intended to provide an overall consistent direction for growth and change in the City over the next thirty years, it also allows for some flexibility and adaptability. Therefore, Council may consider applications that are inconsistent with the densities outlined in the Plan if they are consistent with the intent of the Urban Place Designations and if they further the broad objectives and policies of the plan, as appropriate to the site context.

Key considerations relevant to the evaluation of the requested OCP amendment relate to:

- overall broad consistency between the application and the OCP's objectives
- balancing the density sought against an evaluation of public amenities offered
- infringement into the public view corridor.

### OCP Broad Consistency

To evaluate a proposed amendment to the OCP, applications are assessed against the 13 broad policy directions in the plan. Not all proposals can advance all policy objectives, however, where possible, broad consistency with applicable policy objectives may justify an OCP amendment. Key categories and how they are addressed in the proposal are discussed below.

**Economy** – The application is consistent with aspects of the OCP, increasing the supply of office space to advance economic goals.

**Place-making/Community Well-being** – The proposal advances public realm goals by proposing improvements to the two existing plazas. Additional opportunities of place-making exist in terms of increasing the plaza areas and by adding tree planting to advance urban forest objectives. Community well-being objectives could also be advanced with the introduction of water/ play elements.

**Urban Design and Heritage** – The proposal challenges a number of urban design and heritage objectives, particularly those associated with the site context, including form and character goals, landmark building and heritage conservation area objectives, and impacts on the protected views of the Olympic Mountains.

**Environment** – Trees and landscaping proposed for the rooftop terraces help to advance environmental goals to enhance urban forest objectives. To compensate for the removal of street trees on Douglas street and to further enhance the urban forest, additional trees and planting is recommended for the two adjacent plaza areas.

**Climate Change and Energy** – A number of sustainability targets and green accreditation goals are targeted as part of the application. While these targets are key to the applicant's aspirations for the building, they have not been secured as conditions of rezoning. To better meet this objective, it is recommended that the applicant commit to meeting Step 3 BC Building Code requirements.

**Transportation & Mobility** – The proposal is located along a major transit corridor and on a AAA bike route. These factors, as well as the proposed end of trip facilities, help advance goals to

support public transit and cycling. The staff recommendation to provide bus passes would also help to encourage a travel mode shift, in line with OCP transportation objectives.

### Increased Density & Land Lift Analysis

The density envisioned in the existing Core Inner Harbour/Legislative land use designation is 4:1 FSR while the proposal is for a density of 5.47:1 FSR, an increase of roughly 37 percent.

Where applications are seeking an increase in density, a land lift analysis is typically used to assess proposed amenities against the value of density that exceeds zoning entitlements. The *Inclusionary Housing and Community Amenity Policy (2019)* exempts applications for commercial developments from land lift analysis, except for “atypical” applications, including those where an OCP amendment is requested, as in this case.

While it is recognized that commercial proposals do not usually result in a lift in land value, a third-party economic land lift assists in confirming that the additional density and associated value is commensurate with potential public benefit. As a land lift analysis was not submitted as part of this application, the staff recommendation includes language that a land lift analysis be provided.

### Public View Corridor

The DCAP identifies the view of the Olympic Mountains from Douglas Street (View 5) as an important public view corridor and recommends the following:

1. Consider the location, siting and design of new development within the specified view corridor to maintain views of the character-defining elements described in this section, as seen from the identified public vantage point.
2. Ensure that new development along the Douglas Street corridor is designed to help frame and enhance this view corridor.
3. Ensure that street trees are maintained to help frame this view corridor.

The proposal results in this view being blocked by approximately 56%. This can be largely remedied by shifting the density and massing so that the building better respects this view corridor while still attaining the proposed density. Through this approach, the need for this OCP amendment may be eliminated and/or the magnitude significantly reduced.

## **Rezoning Application**

### Official Community Plan Policies

The subject property is located within the Core Inner Harbour/Legislative Urban Place Designation in the *Official Community Plan (OCP, 2012)*. The commercial uses proposed are consistent with this designation, which envisions buildings up to fifteen storeys or 45m in height, at a maximum density of 4:1 Floor Space Ratio (FSR). The proposal is for a building height of 53m at a density of 5.47:1 FSR.

As noted in the context section, three different urban place designations converge at this location and their boundaries reflect the existing pattern of development and a general distribution of density in the City. Lower densities are encouraged in the Historic Core, medium density in the Core Inner Harbour and higher densities in the Core Business urban place designations.



The proposed use advances important economic objectives to increase the supply of office space at this location; however, at 5.47:1 FSR, the level of density proposed is more typical of the Core Business Urban Place designation, immediately north of the site between Douglas and Blanshard Street and away from the Inner Harbour.

### Downtown Core Area Plan (DCAP) Policies

The DCAP identifies this property within the Inner Harbour District (IHD) and on the Douglas Street Transit Corridor. The IHD is recognized both locally and internationally for its picturesque quality, vitality, and character. Its waterfront setting attracts tourists, visitors, and residents year-round, and respective policy objectives include:

- maintaining and strengthening the IHD as the focus for tourism, government, culture, heritage, and economic development
- ensuring new infill development and improvements to the public realm are sensitively integrated into the historic environment
- supporting public realm improvements that meet the urban design objectives of this Plan
- ensuring that new development within the IHD accommodates uses that contribute to the vitality and economic health of the area.

The development permit report provides a more robust form and character analysis; however, the following sections discuss topics that are related to the rezoning and OCP amendment applications, under the following headings:

- Density
- Massing
- Heritage Landmark Building Policy
- Public Views
- Public Realm.

#### *Density*

The Inner Harbour District is identified within the Special Density Area which exempts proposals from density bonus policies. Given the sensitive context, lower scale and concentration of historic buildings in this area, significant growth and development is not contemplated. As such, rather than specifying a maximum density for the area, density increases must consider “the policies of this Plan along with the local historic context, public realm context and other relevant plans, policies and design guidelines.”

#### *Massing*

An evaluation of the building massing offers a general overview of outcomes associated with the proposed density. Generally, the density has been shifted to the north/west corner of the site, its apex, where it will have the least impact on the residential building (the Aria) to the east.

Adjacent to this site, at the intersection of Douglas and Humboldt streets, is where Douglas Street narrows from its 30m right-of-way width (ROW), to approximately 18m. This means that the proposed massing is shifted toward this narrower section of road. This shift also results in a significant infringement into the protected view of the Olympic Mountains. Additionally, with the bulk of massing pushed to the western property line, the proposed building sits proud of the residential buildings to the immediate north, emphasizing the change in road width and impacting light access and views.

Along the Douglas and Humboldt street frontages, the proposed massing goes right to the property line except for at the ground floor, which is recessed to increase the sidewalk width. Above this recess, the building is cantilevered and continues in a flat, uninterrupted plane to the building top, without setbacks. Typically, policy encourages street setbacks to reduce the visual impact of density, create consistent street wall heights, and ensure solar access to the public realm. In this instance, adherence to the recommended setbacks would reduce the infringement into the view corridor and improve solar access on the public realm to the north.

The Douglas Street frontage of the building extends approximately 80 metres, the longest frontage of the building. Typically, to mitigate the effect of long buildings, the relevant policy aims to break up the massing through building articulation, façade rhythm, and recesses or shifts in building plane. Given the policy intent to create visual interest, complement the local context and mitigate the impact of density, the proposed massing and lack of street setbacks contradict these criteria.

#### *Heritage Landmark Building Policy*

The application falls within the 180m radius of the Empress Hotel, which is one of twelve special heritage landmark buildings identified in both the OCP and the DCAP. Applications within this radius are subject to special consideration to ensure that the height, setbacks, siting, and overall massing proposed respect the visual prominence and character-defining importance of heritage landmark buildings.

Typically, proposals within a heritage landmark building radius utilize design approaches aimed at mitigating scale and/or material juxtapositions and emulate aspects of their heritage context to maintain and complement the area's character. In this instance, although the building scale and massing has been distributed away from a neighbouring residential building, this distribution shifts more density closer toward the Empress, infringes on the Douglas Street view corridor and presents as a competing mass behind the heritage landmark building. The scale of the proposal also has the potential to shift the visual centre of gravity away from the Empress as opposed to respecting its visual prominence.

Additionally, the proposed extensive use of glass on a flat façade, emphasizes the massing of the building and is inconsistent with policy objectives to utilize similar materials, fenestration proportions or building expressions that respond to the heritage landmark building and its context.

#### *Public Views*

Within the context of the Rezoning and OCP Amendment Applications, the proposed density, height and building location, impact protected public views identified in DCAP. Specifically:

- Public Outward View 5: Olympic Mountains from Douglas Street, which is reduced by approximately 56%, and
- Public External Views 1 and 2: from Laurel Point to the Downtown Core and from Songhees Point to the Inner Harbour.

The overall policy objective is to conserve these views as well as minimize impacts to them. In the case of View 5, of the Olympic Mountains, the infringement into this view results in a requirement for an OCP amendment. It is noted 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 with similar siting.

For this proposal, the extent of impact on this view corridor could be mitigated as there is sufficient space available to redistribute density in a manner that would still achieve building separation standards between neighbouring residential buildings and largely shift the proposed building out of the protected view of the Olympic Mountains.

The two public external views, towards the Empress Hotel, are less problematic. As the proposed building is situated behind the Empress Hotel, the views are not obstructed; however, the scale, height, form and character test key policy considerations for new developments within these corridors, namely to:

- ensure taller background buildings do not overwhelm or detract from the Empress
- provide building articulation, rich detailing, punctuated window rhythm, sympathetic building materials, and relatable building designs
- respect architectural night lighting of the Empress.

### *Public Realm*

Two plazas exist at the north and south edges of the subject property. The recently closed Humboldt Street plaza is to the north and a minor plaza exists at the north end of the Crystal gardens, at the confluence of two key interior block pedestrian connections between Humboldt and Douglas Street.

Upgrading the quality of the public realm is a key objective within this area. The upgrades proposed for these existing plazas are significant, and while they are a departure from the Downtown Public Realm Plan, there is a wider City-making rationale that lends support to departing from the City's standard. Introducing unique landscaping here will add to the special nature of the district and provides a physical indication that you are leaving the commercial area of the City and entering the Inner Harbour District.

The proposal shows public realm upgrades to the interior side yard and extending along Douglas Street onto the recently closed Humboldt Street for approximately 20m. The proposal would benefit from extending the public realm along the remainder of Humboldt Street, which would be an excellent candidate for increased plaza area. To support this direction, a staff recommendation is to expand the public realm improvements around the entire site. The City also has public realm policies that aim to increase the tree canopy cover in the City and to introduce opportunities for a water/play element, and further recommendations are provided to support these directions.

Should Council advance this application to a public hearing, the proposed improvements would be secured through an appropriate legal mechanism. A maintenance agreement to maintain the unique seating structures is also proposed for ten years and appropriate wording is included in the alternate motion.

Seating for transit use and weather protection beneath the cantilevered upper storeys of the building are proposed for the length of the Douglas Street frontage. However, the proposed statutory-right-of-way does not extend to capture these features. This means that the City may need to duplicate seating and weather protection within the public realm to ensure their provision for the public. Additionally, there is an opportunity to advance OCP public realm goals aimed at increasing the urban forest canopy and incorporating opportunities for a water/play element within the public areas. The staff recommendation includes language to achieve better alignment with these goals.

## Victoria 3.0 Economic Action Plan

The proposed office building also meets the objectives in the *Victoria 3.0 - Recovery Reinvention Resilience (2020-2041)* economic action plan by providing high quality, centrally located office space and opportunities for job growth.

## Tree Preservation Bylaw and Urban Forest Master Plan

The goals of the *Urban Forest Master Plan* include protecting, enhancing, and expanding Victoria's urban forest and optimizing community benefits from the urban forest in all neighbourhoods.

This rezoning application falls under Tree Preservation Bylaw No. 05-106 consolidated November 22, 2019. The tree inventory in the Arborist Report (attached), includes eight trees located on the subject property, six of which are bylaw-protected. The Planting Plan (attached) proposes planting eight new trees on the property on the ground level; the quantity of replacement trees required by the Bylaw is 12. Additional trees are proposed on top of the building at various levels and may be considered as replacement trees.

There are three street trees on the municipal frontage of Douglas Street and all are proposed to be removed. There are seven street trees on the municipal frontage of Humboldt Street; four are proposed to be removed and three are proposed to be retained. The southern plaza adjacent the Crystal Gardens has five municipal trees and all are proposed to be retained.

Confirmation of report accuracy is recommended prior to advancing this application as there is a discrepancy between what is provided in the Arborist Report and what is proposed on the Planting Plan relative to the number of municipal trees impacted.

The following is a summary of the tree-related considerations that require further refinement:

- Based on the current site servicing location and offset requirements for infrastructure, new street tree planting on the Douglas Street frontage is not feasible given the current building siting. The potential realignment of the curb at the pedestrian crossing may provide sufficient space and soil volume for a single tree; however, feasibility is not yet confirmed.
- The plazas provide the best areas for proposed municipal tree planting and, subject to finalizing the bike lane re-alignment on Humboldt Street, additional street trees may also be achievable there.
- There are municipal trees proposed within hard surfaces and the applicant has indicated their intention to use soil cells to achieve recommended soil volumes in these locations. A minor plan revision is recommended to capture this commitment.
- Rain gardens have been recommended by the City for the southern plaza to demonstrate sustainable stormwater management and to further strengthen the 'ocean' design theme. This recommendation is not reflected in the application.
- A pad-mounted transformer has not been included on the plans. Confirmation of any/all utility locations is recommended to ensure feasibility of the proposed design.

The staff recommendation includes the necessary wording to ensure the above issues can be addressed as the application proceeds through the refinement stage. A Tree Impact Summary is provided in the attached Arborist Report.

## Encroachment Agreement

The proposed underground parking extends to the property line and may require anchor pinning into the City right-of-way. To facilitate this, the applicant is required to enter into an Encroachment Agreement with the City. Appropriate wording is included in the alternate recommendation should Council wish to already advance this application for consideration at a Public Hearing.

## Resource Impacts

The application includes a variety of unique street furnishings and public realm treatments that require a maintenance approach that differs from the City's standard practice. To accommodate this unique public realm, should Council decide to advance the application to a public hearing, wording has been provided in the alternate motion to secure a maintenance agreement to ensure the property owner will maintain these features for ten years.

Parks operating budget impacts:

Increased Inventory	Annual Maintenance
Five new municipal trees	\$900
Planting Beds	\$4,250
Irrigation	\$600

## CONCLUSIONS

This proposal is for an ambitious and iconic office building, near to the City's Inner Harbour and within one of the most important heritage landmark building areas of the City. An OCP Amendment is required to change the land use designation of this site from Core Inner Harbour/Legislative to Core Business to accommodate the increase in density from 4.0:1 to 5.47:1. The building, as proposed, infringes into a protected view corridor, which also requires an OCP amendment.

This proposal would advance City goals including those related to economic development and has the potential to improve the local public realm. However, the proposal challenges many other objectives of the Downtown Core Area Plan and Official Community Plan in this important heritage district.

The recommendation to Council, therefore, seeks siting and massing changes as well as form and character amendments which do not have a detrimental affect on the program being sought. On this basis, the recommendation is to refer the application back to staff to continue working with the applicant toward achieving a proposal that better aligns with the Official Community Plan.

**ALTERNATE MOTION 1** (OCP amendment considerations and motion to advance as is)

### OCP Amendment Considerations:

Should Council wish to advance the proposal without refinements, in accordance with the Local Government Act (LGA), it must first undertake a number of specific considerations which are described below.

Section 475 of the LGA requires a Council to provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected by an amendment to the OCP. Consistent with Section 475 of the LGA, Council must further consider whether consultation should be early and ongoing. This statutory obligation is in addition to the Public Hearing requirements. In this instance, staff recommend, for Council's consideration, that notifying owners and occupiers of land located within 200 metres of the subject site, along with posting a notice on the City's website, will provide adequate opportunities for consultation with those affected.

An OCP Amendment application, to change the Urban Place Designation of the subject lands from Core Inner Harbour/Legislative to Core Business, with a higher density and a decrease in the view corridor of the Olympic Mountains from Douglas Street, is proposed. Given the subject property does not border another municipality, and that through the Community Association Land Use Committee (CALUC) Community Meeting process all owners and occupiers within a 200m radius of the site were notified and invited to participate in an on-line community feedback process, the consultation proposed at this stage is recommended as adequate and consultation with specific authorities, under Section 475 of the LGA, is not recommended as necessary.

Should Council support the OCP amendment, Council is required to consider consultation 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 government and its agencies. However, further consultation is not recommended as necessary for this amendment to the Urban Place Designation nor infringement into the public view corridor as this matter can be considered under policies in the OCP.

Council is also required to consider OCP Amendments in relation to the City's *Financial Plan* and the *Capital Regional District Liquid Waste Management Plan* and the *Capital District Solid Waste Management Plan*. This proposal will have no impact on any of these plans.

**Motion to advance application as is:**

- 1.) That subject to resolution of outstanding site servicing, tree preservation and tree replacement issues, 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:
  - a. Preparation of legal agreements, executed by the applicant, in a form to the satisfaction of the City Solicitor:
    - i. a SRW on 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 (volumetric) SRW on Douglas Street for a minimum width of 4.5m to secure an increased sidewalk width;
    - iv. public realm improvements as indicated on the plans dated December 4, 2020;

- v. sustainability and active transportation features identified in the staff report and as committed to by the applicant.
- 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:
  - i. anchor-pinning in the City Right-Of-Way."

## **ALTERNATE MOTION 2 (decline)**

"That Council decline Application No. 00746 for the property located at 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, 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.