



## Council Report

For the Meeting of September 8, 2022

---

**To:** Council **Date:** August 25, 2022

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

**Subject:** **Update Report for Rezoning Application No. 00730 for 903, 911 & 1045 Yates Street, 910 View Street and 1205 & 1209 Quadra Street and Associated Official Community Plan Amendment and Development Permit with Variances Application No. 00150 for 1045 Yates Street**

---

### RECOMMENDATION FOR REZONING NO. 00730

1. That Council give first reading of the following bylaws:
  - a. Zoning Regulation Bylaw, Amendment Bylaw (No. 1279) No. 22-059 ("Zoning Amendment Bylaw")
  - b. Official Community Plan Amendment Bylaw (No. 44) No. 22-058 ("OCP Amendment Bylaw")
2. That Council give first, second and third reading of associated Housing Agreement Bylaws No. 22-084 and No. 22-085.
3. That Council consider the OCP 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 OCP Amendment Bylaw.
4. That Council give second reading to the following bylaws:
  - a. Zoning Amendment Bylaw
  - b. OCP Amendment Bylaw.
5. That Council refer the OCP Amendment Bylaw and Zoning Amendment Bylaw for consideration at a public hearing.

### RECOMMENDATION FOR DEVELOPMENT PERMIT WITH VARIANCES NO. 00150

(updates in bold text)

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. 00730, if it is approved, consider

the following motion:

“That subject to receipt of a letter from the Ministry of Environment confirming that the landowner has met the requirements of Section 557(2) of the *Local Government Act* with respect to contaminated sites, that Council authorize the issuance of Development Permit with Variances Application No. 00150 for 1045 Yates Street in accordance with:

1. Plans date stamped **August 4, 2022**.
2. Development meeting all *Zoning Regulation Bylaw* requirements except for the following variances:
  - i. Increase the maximum number of storeys from 20 to 21
  - ii. Increase the maximum height from 60m to 68.51m
  - iii. Increase the maximum height allowed for rooftop structure from 5.0m to **6.55m**
  - iv. Reduce the required setback on the first storey for Yates Street from 3.0m to 2.0m
  - v. **Reduce the required setback on the first storey for Cook Street from 3.0m to 2.0m**
  - vi. **Reduce the required setback for portions of the building above 9m and up to 21m in height on the interior lot line from 4.5m to 4.45m**
  - vii. **Reduce the required setback for portions of the building above 21m in height on the interior lot line from 16m to 6.10m**
  - viii. **Increase the balcony and deck projections from 2.0m to 2.5m**
  - ix. Reduce the required number of residential vehicle parking stalls from **282 stalls to 273 stalls**
  - x. Reduce the required number of residential visitor vehicle parking stalls from **53 to 38 stalls**
  - xi. Reduce the required number of commercial parking stalls from **67 to 43**
  - xii. Reduce the required number of daycare parking stalls from **5 to 3**
  - xiii. Reduce the number of short-term bicycle stalls to be located further than 15m of a public entrance from **74 to 30**.
3. Final plans to be generally in accordance with plans date stamped **August 4, 2022**.
4. That the Development Permit, if issued lapses two years from the date of this resolution.”

## EXECUTIVE SUMMARY

The purpose of this report is to update Council on the Official Community Plan Amendment Application (OCP) and concurrent Rezoning Application for the properties located at 903, 911 and 1045 Yates Street, 910 View Street and 1205 and 1209 Quadra Street. On November 25, 2021, Council passed a motion advancing the application to a public hearing, subject to the applicant completing the conditions outlined in the motion (attached). These conditions and associated legal agreements have now been prepared. Additionally, the results of the Official Community Plan Amendment consultation are presented and attached for Council’s information.

## **Council Pre-Conditions**

Regarding the pre-conditions that Council set in relation to this application, staff can report that all conditions and agreements have been executed and the application is ready for Council's consideration of introductory readings. Relevant updates and minor deviations from Council's original motion of November 25, 2021, are summarized below.

## **Plan Revisions and Design Studies**

A number of plan revisions and clarifications have been incorporated into the updated Development Permit with Variances; however, the massing, height and proposed design remain unchanged from when Council last viewed the application. A summary of the changes is outlined below.

- The mechanical rooftop structures were reduced in height from 9.46m to 6.55m and the materials upgraded from painted concrete to "panel cladding."
- The mini-plaza at the intersection of Cook and Yates Street has been refined to include raised planters and bench seating for public use, which has been secured through a legal agreement.
- Tall guardrails have been incorporated on the roof terrace of Tower A as a wind mitigation measure.
- A minimum setback from the property line along Cook Street of 1m has been incorporated to ensure the protection of the existing street trees.
- A dedicated space for emergency communication equipment has been added to the roof of Tower A.
- Paving patterns and street furnishings have been corrected to be consistent with the Downtown Public Realm and Streetscape Plan.
- Corrections have been made to the road and curb alignment and lane configuration on View Street.
- The number of street trees being proposed along View Street in Phase 1 has been reduced from six to two, and further discussion is provided below.

## **Street Trees**

At the request of staff, the applicant submitted a revised civil plan for Phase 1 (1045 Yates Street) which included a preliminary alignment of BC Hydro services. The current proposed alignment suggests that the six proposed street trees along View Street, as originally presented to Council, may need to be reduced from six down to two. Staff will continue to work with the applicant and BC Hydro at the building permit stage to retain as many of the planned street trees as feasible, with soil cells and root barrier.

## **Shadow Studies**

Council requested the applicant provide a shadow study of the proposed green space when the matter returns to Council, and shadow studies have been provided for the areas of the site that will have public access secured by way of a statutory right-of-way. This includes the main plaza on the 900 block and the mini-plaza at the intersection of Cook and Yates Street. The attached plans dated August 15, 2022 demonstrate that the majority of the main plaza will have access to sunlight between 12 noon and 4pm. For the mini-plaza, the sunniest times of the day will be in the morning.

### Acoustic Study

The applicant has provided an exterior mechanical noise review (attached) in response to Council's request that noise mitigation be in place for all rooftop equipment with a commitment to include an acoustic study for each Development Permit phase (as referenced in design guidelines). The findings of the review indicate that the rooftop mechanical equipment will be compliant with the *Noise Bylaw*. Mitigation is recommended to reduce the noise impact at the southwest mechanical vents adjacent to the parkade entrance on View Street and the updated plans incorporate the recommended measures.

### Pedestrian Wind Assessment

Consistent with the Council motion of November 25, 2021, an updated Pedestrian Wind Study was submitted to reflect the current massing. The attached letter concludes that the wind conditions for the current design are expected to remain similar to those predicted from the initial wind tunnel study. However, as indicated in the initial study, higher than desired wind speeds for passive pedestrian use (e.g. sitting, dining, etc.) are expected to persist at select terrace locations. To help address this, 2m guardrails have been incorporated on the roof terrace of Tower A as recommended by the study.

### **Tenant Assistant Plan**

Consistent with the Council resolution of November 25, 2021, the applicant has adjusted the Tenant Assistance Plan (attached) to provide right of first refusal at the eligible tenants' previous rent rate (with allowable annual increases under the *Residential Tenancy Act*) and will have all moving expenses covered as per the policy for tenants wanting to access right of first refusal. The applicant has provided direct confirmation that all tenants have read the *Tenant Assistance Policy* and has provided tenants with the opportunity to request additional assistance.

### **Legal Agreements and Bylaw Structure Update**

A Master Development Agreement (MDA) has been prepared in accordance with the Council motion of November 25, 2021. The MDA sets out the sequencing of amenity provisions and other requirements for the development pursuant to Council's November 25 motion and will be registered on title to the lands as a covenant under section 219 of the *Land Title Act*. In addition, Housing Agreements have been prepared to secure the rental tenure of the building in perpetuity and to secure the affordable units in perpetuity and allocated to median incomes (or lower) as defined in the Victoria Housing Strategy. These legal agreements have been executed by the applicant and registration of the MDA will occur prior to a public hearing.

### Affordable Rental Housing Agreement

Council originally requested a minimum of 40 of the affordable units be provided in Phase 1 of the proposed development (1045 Yates Street) and a minimum of 40 be provided within Phase 2 and 3 combined. However, the applicant has volunteered to front-load the affordable units and allocate all 80 within Phase 1. Staff are supportive of this amendment since it ensures that all affordable units are delivered in the first phase of the development. Minor adjustments to the unit mix are proposed and are discussed later in this report.

The Affordable Rental Housing Agreement secures the affordable housing and requires that the lands contained in Development Area 1 (1045 Yates Street) shall contain no less than 80 dwelling units allocated to median income housing, as defined in the Victoria Housing Strategy, or in the event that the Victoria Housing Strategy is not updated in the previous twelve months, then the real median total household income for renters as reported by Canada Mortgage and Housing Corporation (CMHC) will be used. Of these 80 dwelling units, 10% (8) will be three-bedroom units, 10% (8) will be one-bedroom units and 80% (64) will be studio dwelling units. A bylaw is required to authorize this agreement and a summary of the unit mix of the affordable homes is provided below:

Phase	Studio (min. 290 ft <sup>2</sup> )	1-bedroom (min. 405 ft <sup>2</sup> )	3-bedroom (min. 735 ft <sup>2</sup> )	Total
1	64	8	8	80

From a policy perspective, there are no requirements for the provision of affordable housing for 100% rental projects where the tenure is secured through a legal agreement. If the proposal was for condominiums, the City's *Inclusionary Housing and Community Amenity Policy* would require 10% to 20% of the total FSR or total units as inclusionary housing rental units. Provision has been made within the Master Development Agreement to ensure the affordable studio units are a minimum size of 290 ft<sup>2</sup> (27m<sup>2</sup>).

#### Unit Mix

Since the application was last presented to Council, the total unit count for Phase 1 has increased from 518 to 526. For further clarity, an updated breakdown of the unit mix is provided in the table on the following page, including reference to the accessible and affordable units.

The proportion of studios has increased (from 48 to 64) since the application was presented to Committee of the Whole in October, and this includes both affordable and accessible/affordable units. The average size of the studio units is 320 ft<sup>2</sup> (29 m<sup>2</sup>) and the applicant has committed through a legal agreement that the affordable studio units across all phases would be no less than 290 ft<sup>2</sup> (27m<sup>2</sup>). A number of junior two-bedroom units have been added to the unit mix, six of which are allocated as accessible units.

	October 2021 Proposal			Current Proposal		
Unit Type	Unit size range (ft²)	Number of Dwelling Units	% of Total Units for Phase 1	Unit size range (ft²)	Number of Dwelling Units	% of Total Units for Phase 1
Studio	290-390	16	3.1%	-	-	-
Studio (accessible/affordable)	-	-	-	321-347	20	3.8%
Studio (affordable)	290-345	32	6.2%	293-343	44	8.3%
1-bedroom	420-590	219	42%	450-650	215	41%
1-bedroom (affordable)	405-420	4	0.8%	450-650	8	1.5%
1-bedroom + den	505-695	78	15%	450-650	42	8%
Jr. 2-bedroom	-	-	-	700-800	22	4%
Jr. 2-bedroom (accessible)	-	-	-	700-800	6	1%
2-bedroom	630-915	85	16.4%	700-800	85	16.2%
2-bedroom (affordable)	-	-	-	-	-	-
2-bedroom + den	840-920	2	0.4%	850-900	2	0.4%
3-bedroom	735-1050	71	14%	950-1050	67	13%
3-bedroom (affordable)	735	4	0.8%	950-1050	8	1.5%
Townhouse	950-1310	7	1.3%	1100-1400	7	1.3%
<b>Total</b>		<b>518</b>	<b>100%</b>		<b>526</b>	<b>100%</b>

### Transportation Demand Management

The MDA includes a Transportation Demand Management (TDM) Agreement which sets out the specific programs being secured to encourage use of sustainable mobility and shared, low-carbon transportation for use by both residential and commercial portions of the building. The program is consistent with Council's motion from the meeting of November 25, 2021 and supports the local car share provider's goal of being 100% fully electric by 2030 with provision of fully electric car share vehicles. The TDM Agreement ensures that a proportionate level of programs will be provided (as compared to Phase 1) in future phases and that these features are provided prior to occupancy of any part of the building.

### Accessible Units

Council directed the applicant to provide "no less than 5% of the total units (across all phases) as being accessible in perpetuity, which shall achieve at a minimum accessible entrances, accessible bathrooms, accessible kitchens, all with associated fixtures and fittings as detailed in the letter from the applicant dated October 28, 2021, and meeting an overall standard of accessibility to be identified by and to the satisfaction of the Director of Sustainable Planning and Community Development". To further inform the process, staff met with the Accessibility Advisory Committee at a meeting on March 22, 2022 which led to a request for an increased proportion of larger family sized units, consideration regarding durability and safety and adequate storage within the units.

The list of accessible dwelling unit features above and beyond what is required for “Adaptable Dwelling Units” pursuant to the *BC Building Code* is attached as schedule within the MDA, and the applicant has committed to 30% of all accessible units in each of Phase 2 and Phase 3 as being two-bedroom or larger.

### Overall Structure and Effect of Legal Agreements and Bylaws

The agreements secure all conditions required in the Council resolution of November 25, 2021 and key points to note are as follows:

- The community amenities listed in the attached Zoning Amendment Bylaw must be provided in order to achieve the increase in density (6.19:1 FSR for 1045 Yates Street and 6:1 FSR for the 900 block Yates Street); otherwise the base density of the zone is applicable (3:1 FSR). These provisions are contained within the attached Zoning Amendment Bylaw.
- The owner must construct the public plaza, public art and community space (as referenced in the Zoning Amendment Bylaw) within 10 years of the issuance of an occupancy permit for the Phase 2 building and prior to the issuance of an occupancy permit for the Phase 3 building.

### **Design Guidelines**

Updates to the *900-block Yates and 1045 Yates Urban Design Manual* have been provided consistent with Council direction at the meeting of November 25, 2021, which primarily related to minor corrections and clarifications as well as a requirement that the public plaza be mostly park-like green space. The *900-block Yates and 1045 Yates Urban Design Manual* will be referenced in the *Official Community Plan* under Development Permit Area 3 (HC): Core Mixed-Use Residential.

### **Official Community Plan Referral**

Consistent with the *Local Government Act*, notification of the proposed Official Community Plan Amendment was mailed to properties within a 200m radius of the subject properties on April 22, 2022, and a 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 was carried out. The comment period ended on May 23, 2022 and out of 4,424 notifications mailed out, 60 responses (attached) were received (1.4% response rate).

Of the 60 responses received, 14 (23%) indicated they are in favour of the proposal and 46 (77%) indicated opposition or concern. Those in favour of the application noted the provision of additional housing through increased density as reasons for their support. The responses for those opposed identified the following areas of concern:

- too large, overwhelms/ dominates the area, too tall
- does not fit with the character of the area
- detrimental impact to the Harris Green context
- construction / noise impacts
- traffic impacts
- loss of views
- effect on property values
- wind and sunlight access

- large carbon footprint
- seismic stability
- oversaturation of rental units for the neighbourhood (lack of home ownership options)
- inadequate affordability
- timing of landscape completion
- impact on businesses.

## Variances

### Parking

Minor adjustments to the parking variances have occurred in the latest plan revisions. Because of the increase to the number of affordable units within Phase 1, the required amount of residential parking has decreased from 282 to 277. As a result, the parking variance being requested for residential use has reduced from 9 to 4. The increase to the total number of units has led to an increase in the required number of residential visitor stalls from 52 to 53 and the requested variance for visitor stalls has increased from 13 to 15. Corrections to the calculation of the commercial area (primarily by including the patio seating area as required under the *Zoning Regulation Bylaw*) has resulted in an increased number of required stalls from 60 to 67, which has increased the commercial parking variance from 17 stalls to 24 stalls. The variance for daycare use is unchanged. The total vehicle parking variance is 45 stalls.

The previous bicycle parking shortfall has been eliminated and the variance request has been updated to account for 30 short-term bicycle stalls being located greater than 15m from a publicly accessible building entrance. The table below provides a summary of how the current vehicle and bicycle parking provision differs from the proposal presented to Committee of the Whole in October 2021. An asterisk is used to identify where the proposal is seeking a variance from the requirements under the existing zone(s).

Zoning Criteria	October 2021 Proposed Parking	October 2021 Parking Requirement	Current Proposed Parking	Current Parking Requirement
Vehicle parking – residential (minimum)	<b>273*</b>	282	<b>273*</b>	277
Vehicle parking – residential visitor	<b>39*</b>	52	<b>38*</b>	53
Vehicle parking – commercial	<b>43*</b>	60	<b>43*</b>	67
Vehicle parking – Daycare	<b>3*</b>	5	<b>3*</b>	5*
Total vehicle parking (exc. car share)	<b>358</b>	399	<b>357*</b>	402



Zoning Criteria	October 2021 Proposed Parking	October 2021 Parking Requirement	Current Proposed Parking	Current Parking Requirement
Vehicle parking – car share stalls	2	N/A	2	N/A
Bicycle Parking				
Long Term (minimum)	<b>587*</b>	597	617	606
Short Term (minimum)	<b>70*</b>	71	75	74
Location (ST) within 15m of a public building entrance	<b>42*</b>	71	<b>30*</b>	74

### Accessible Parking

Although the proposal pre-dates the requirement to provide accessible parking stalls, the applicant has provided nine accessible parking stalls on-site which meet the required dimensions and paint markings of the recently amended *Zoning Regulation Bylaw* and *Zoning Bylaw 2018*.

### Setbacks

The *900-block Yates and 1045 Yates Urban Design Manual* includes a prescriptive set of guidelines to establish the podium and tower configuration. For greater certainty, these setbacks have been included in the attached Zoning Amendment Bylaw, which means that any future development permit that doesn't meet the minimum setback requirements would be subject to the variance process (which includes an opportunity for public comment). For the first phase of the development, the following minor setback variances are being requested:

- reduce the required setback on the first storey for Yates Street from 3.0m to 2.0m
- reduce the required setback on the first storey for Cook Street from 3.0m to 2.0m
- reduce the required setback for portions of the building above 9m and up to 21m in height on the interior lot line from 4.5m to 4.45m
- reduce the required setback for portions of the building above 21m in height on the interior lot line from 16m to 6.10m
- increase the balcony and deck projections from 2.0m to 2.5m.

Staff are supportive of these variances, as the encroachments generally relate to a small proportion of the overall frontage, such as the elevator core along Yates Street and the stair exit along Cook Street. The reduction in the interior lot setback from 16m to 6.10m is due to the jog in the interior lot line, and the tower is consistent with the minimum setback from the northerly portion of the interior lot line. It is worth noting that the proposal has not materially changed from what Council was presented in 2021; these variances are simply a reflection of reconciling the proposal with the details of the now drafted *Zoning Regulation Bylaw*.

## Ministry of Environment

Consistent with standard practice, included in Council resolution from November 25, 2021, for DPV No. 00150 is a condition that the Ministry of Environment confirm that the landowner has met the requirements of Section 557(2) of the *Local Government Act* with respect to contaminated sites. The applicant has since submitted a remediation plan to the Ministry of Environment supporting independent remediation of the site and staff have received confirmation that this has been accepted. Council is therefore authorized to approve the relevant permits and this aspect of the staff recommendation has been removed. This pertains to the first phase of development. Additional authorization will be required at the time of development permits for the later phases.

## CONCLUSIONS

The amenities proposed in association with this Rezoning Application are secured in a variety of ways through a Master Development Agreement and the Zoning Amendment Bylaw, and through the subsequent finalization of various legal agreements pursuant to the MDA. The applicant has responded to the pre-conditions that Council set in relation to this proposal, and the required legal agreements have been secured through the MDA, which has been executed by the applicant and will be registered prior to a public hearing. As such, this application is now ready to advance to a public hearing.

Respectfully submitted,

Charlotte Wain  
Senior Planner – Urban Design  
Development Services Division

Karen Hoese, Director  
Sustainable Planning and Community  
Development Department

**Report accepted and recommended by the City Manager.**

## List of Attachments

- Attachment A: July 15, 2021 Committee of the Whole Report and Attachments
- Attachment B: Minutes from July 15, 2021 Committee of the Whole meeting
- Attachment C: Council Ratification of August 5, 2021
- Attachment D: October 28, 2021 Committee of the Whole Report and Attachments
- Attachment E: Minutes from October 28, 2021 Committee of the Whole meeting
- Attachment F: Council Ratification of November 25, 2021
- Attachment G: Revised Plans date stamped August 4, 2022
- Attachment H: Revised Rezoning Booklet date stamped August 18, 2022
- Attachment I: 900-Block Yates & 1045 Yates Urban Design Manual date stamped August 4, 2022
- Attachment J: Detailed Shadow Studies, dated August 15, 2022
- Attachment K: Final Tenant Assistance Plan, dated August 9, 2022
- Attachment L: Addendum to Pedestrian Wind Study Draft Report, letter dated October 8, 2021
- Attachment M: Exterior Mechanical Noise Review (1045 Yates Street), dated February 1, 2022
- Attachment N: Minutes from meeting with Accessibility Advisory Committee, dated March 22, 2022

- Attachment O: OCP Referral Correspondence
- Attachment P: Correspondence (Letters received from residents)
- Attachment Q: Official Community Plan Amendment Bylaw (No. 44) No. 22-058
- Attachment R: Zoning Regulation Bylaw, Amendment Bylaw (No. 1279) No. 22-059
- Attachment S: Housing Agreement Bylaw No. 22-084 and Housing Agreement for rental tenure
- Attachment T: Housing Agreement Bylaw No. 22-085 and Housing Agreement for median income.