



Committee of the Whole Report For the Meeting of June 29, 2023

To: Committee of the Whole **Date:** June 15, 2023

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

Subject: **Update Report on Rezoning Application No. 00794 and Development Permit with Variances Application No. 00183 for 480 and 492 Esquimalt Road**

RECOMMENDATION

Rezoning and Official Community Plan Amendment Application No. 00794

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00794 for 480 and 492 Esquimalt Road, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. That the Zoning Regulation Bylaw Amendment limit the form of tenure to residential rental tenure within the entire zone.
2. Preparation of legal agreements executed by the applicant to secure the following with the form and contents to the satisfaction of the Director of Sustainable Planning and Community Development and the City Solicitor:
 - a. Secure a minimum of 29 two-bedroom units and five three-bedroom units.
 - b. Secure a Statutory Right of Way over the courtyard for public use.
3. Preparation of legal agreements executed by the applicant to secure the following with the form and contents to the satisfaction of the Director of Engineering and Public Works and the City Solicitor:
 - a. Secure the provision of car share memberships and usage credits for all residential units, two car share vehicles, two dedicated car share vehicle stalls and public access to these stalls, a minimum of 20 long term bicycle stalls above the minimum requirements of Schedule C of the Zoning Regulation Bylaw, 10% of which are cargo bicycle stalls, a bicycle wash and repair station, electrical outlets for 50% of the bicycle parking stalls, enrollment in the BC Transit EcoPass program for five years for each of the commercial units and 10% of the residential units, and end of trip facilities for the commercial tenants.
 - b. Secure a sidewalk to City standards on Russell Street north of the development site connecting to Dundas Street.

- c. Secure a Statutory Right-of-Way of between 0.95m and 1.75m along the Esquimalt Road frontage to accommodate a sidewalk and boulevard to City standard widths.
 - d. Secure a Statutory Right-of-Way of 1.63m along the Russell Street frontage.
 - e. Secure a Statutory Right-of-way of no greater than 4.0m by 4.0m along Esquimalt Road for the purpose of water meter vault.
 - f. Release of the existing triangular-shaped Statutory Right-of-Way at 492 Esquimalt Road, numbered 175468-G.
4. Revised Arborist Report and Landscape Plans to the satisfaction of the Director of Parks, Recreation and Facilities to address outstanding Parks comments provided June 13, 2023.

Development Permit with Variances Application No. 00183

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. 00794 if it is approved, consider the following motion:

1. That Council authorize the issuance of Development Permit with Variances Application No. 00183 for 480 and 492 Esquimalt Road, in accordance with:
 - a. Plans date stamped June 6, 2023.
 - b. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. increase the height from six storeys to seven storeys to accommodate the rooftop amenity access and mechanical room
 - ii. decrease the rear yard setback from 3.0m to 0.12m;
 - iii. decrease the residential vehicle parking from 95 stalls to 25 stalls;
 - iv. decrease the visitor vehicle parking from 10 stalls to 4 stalls;
 - v. decrease the commercial vehicle parking from 11 stalls to 5 stalls;
 - vi. permit long-term bicycle parking to be in a stacked format.
2. That the Development Permit, if issued, lapses in two years from the date of this resolution.

LEGISLATIVE AUTHORITY

This report discusses a Rezoning Application and a concurrent Development Permit with Variances Application. Relevant rezoning considerations include the proposal to add residential as a new use while the relevant Development Permit with Variances considerations relate to the application’s consistency with design guidelines and the impact of variances.

EXECUTIVE SUMMARY

The purpose of this report is to update Council on the Rezoning Application for the property located at 480 and 492 Esquimalt Road. The proposal is to rezone from the M-1 Zone, Limited Light Industrial District to a new zone to construct a six-storey mixed-use building with commercial, industrial, residential and live-work uses with a approximately 95 rental residential units.

At the Committee of the Whole (COTW) meeting of July 28, 2022, Council passed a motion to

advance the application to a Public Hearing, subject to the applicant fulfilling the conditions outlined in the motion (below). However, the applicant has made changes to the application on their own accord that warrant an additional review by Committee of the Whole prior to advancing to a preparation of the Zoning Bylaw and subsequent scheduling of the Public Hearing.

BACKGROUND

The application was considered by COTW on July 28, 2022, and came before Council on August 4, 2022, where the following resolution was ratified:

Rezoning Application

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00794 for 480 and 492 Esquimalt Road, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. *Revised plans that address the following:*
 - a. *confirm the percentage of horizontal ground-mounted long-term bicycle parking stalls to meet Schedule C requirements.*
2. *Preparation of legal agreements executed by the applicant to secure the following with the form and contents to the satisfaction of the Director of Sustainable Planning and Community Development and the City Solicitor:*
 - c. *Secure the building as rental in perpetuity.*
 - d. *Secure a minimum of 30 two-bedroom units.*
 - e. *Secure a Statutory Right of Way over the courtyard for public use.*
 - f. *Secure the following building amenities:*
 - a. *minimum of 47 storage lockers for residents*
 - b. *rooftop amenity spaces as proposed in the landscape plans, including seating, barbecues and portable propane fire pits.*
3. *Preparation of legal agreements executed by the applicant to secure the following with the form and contents to the satisfaction of the Director of Engineering and Public Works and the City Solicitor:*
 - a. *Secure the provision of car share memberships and usage credits for all residential units, one car share vehicle, one dedicated car share vehicle stall and public access to the stall, a minimum of 123 long-term bicycle stalls to exceed the minimum requirements by 19, ten of which are cargo bicycle stalls, a bicycle wash and repair station, electrical outlets for 50% of the bicycle parking stalls, enrollment in the BC Transit EcoPass program for three years for each of the three commercial units, and end of trip facilities for the commercial tenants.*
 - b. *Secure a sidewalk to City standards on Russell Street north of the development site connecting to Dundas Street.*
 - c. *Secure a Statutory Right-of-Way of between 0.95m and 1.75m along the Esquimalt Road frontage to accommodate a sidewalk and boulevard to City*

standard widths.

- d. Secure a Statutory Right-of-Way of 1.63m along the Russell Street frontage.*
 - e. Release of the existing triangular-shaped Statutory Right-of-Way at 492 Esquimalt Road, numbered 175468-G.*
 - f. Secure the proposed removal of power poles and the subsequent undergrounding of power servicing on Russell Street.*
- 4. Provision of a letter from the owner at 404 Dundas and outlines their awareness and agreement to follow the requirements of tree replacement on their property.*
 - 5. Revised Arborist Report to change the proposed small trees to Part 2, small trees, and to include the Part 1, medium trees proposed. The report must also be revised to include the review of the BC Hydro Servicing and providing comment on the feasibility for retention of the municipal tree at 414 Dundas.*
 - 6. That staff work with the applicant to secure as much light industrial space as possible.*

Development Permit with Variances Application

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. 00794 if it is approved, consider the following motion:

- 1. That Council authorize the issuance of Development Permit with Variances Application No. 00183 for 480 and 492 Esquimalt Road, in accordance with:*
 - c. Plans date stamped May 31, 2022.*
 - d. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:*
 - vii. increase the height from six storeys to seven storeys to accommodate the rooftop amenity access and mechanical room*
 - viii. decrease the rear yard setback from 3.0m to 0.12m*
 - ix. decrease the residential vehicle parking from 83 stalls to 43 stalls*
 - x. decrease the visitor vehicle parking from 9 stalls to 4 stalls*
 - xi. decrease the commercial vehicle parking from 30 stalls to 16 stalls.*
- 2. That the Development Permit, if issued, lapses in two years from the date of this resolution.*

UPDATE

The following sections will provide an update on applicant-initiated changes and the required legal agreements.

Revised Plans

The applicant has submitted revised plans that have changed some aspects of the proposal and therefore require reconsideration by Committee of the Whole. These changes are outlined below.

Industrial Space

The previous iteration of the proposal featured large commercial and industrial spaces on the ground floor, and the most recent Council motion directed staff to secure as much of that space as possible for industrial uses. However, the applicant has provided a letter indicating that the financial landscape has changed, making it difficult to provide the 1204.58m² of commercial space, let alone secure it as industrial space. Subsequent revisions have reduced the amount of commercial space to 222.9m², with an additional 508.49m² of space provided within ten work-live units.

Despite this change, the application would remain consistent with the relevant policy, as both the Employment-Residential designation in the OCP and the General Employment with Limited Residential designation in the *Victoria West Neighbourhood Plan* envision work-live as a permitted use.

Parking

The second level of parking was removed as part of the revisions, which reduces the number of vehicle parking stalls for a total of 34 stalls including the one car share stall. The following data table illustrates the reduction in parking, as a result of the change in unit composition and the change in uses to work-live.

	Previous Provided	Previously Required	Currently Provided	Currently Required
Residential	43	83	25	95
Visitor	4	9	4	10
Commercial	16	30	5	11
Total	63	122	34	116

The applicant has agreed to an improved Transportation Demand Management (TDM) program to offset the increased parking variance. This includes an additional car share vehicle and car share stall, 11 additional long-term bicycle stalls, increasing the term of the EcoPass program from three years to five years, and enrolling 10% of the residential units within the EcoPass program (previously zero residential units were included).

The applicant is proposing a stacked bicycle parking system. Stacked bicycle parking systems can provide space saving opportunities but require a variance as they are not currently accommodated in the City's bicycle parking regulations. The applicant has provided a specification for the stacked bicycle parking to ensure sufficient height clearance and an accessible lift assist mechanism is provided.

Legal Agreements

The City has adopted a new approach to completing legal agreements which sees agreements drafted, executed and registered on title after the Public Hearing but before final adoption of the Zoning Regulation Bylaw Amendments. However, as this application was last considered by Council in the summer of 2022, the legal agreements for this application are already near completion. Therefore, staff recommend finalizing these legal agreements prior to a Public Hearing, which would likely be the more expedient option should Council choose to advance the application.

Rental Housing and Unit Composition

The property will be placed within the Residential Rental Tenure Zoning which will ensure that both this development and the land itself is retained for rental tenure housing. Recent changes to Provincial legislation related to housing and strata regulations means that a Housing Agreement to secure the building as rental in perpetuity is no longer necessary. Therefore, the recommended motion removes the requirement to secure the rental tenure through a Housing Agreement.

The applicant has extended the building at level two between the two wings, which allow for larger unit layouts. This has changed the unit composition that will be secured in a legal agreement. Previously, 30 two-bedrooms units were being secured. The new unit composition being secured is for 29 two-bedroom units and five three-bedroom units.

Statutory Right of Way and Covenants

As per Council direction, Statutory Right-of-Ways of between 0.95m and 1.75m along the Esquimalt Road frontage and of 1.63m along the Russell Street frontage would still be secured. In addition, the Statutory Right-of-Way to secure the courtyard for public use would also be secured. Finally, the legal agreement to secure a sidewalk on Russell Street north of the development site is still proposed.

The need for a Statutory Right-of-Way for a water meter vault located on the Esquimalt Road frontage has been identified through recent design submissions and would be on private lands due to space limitations in the road right-of-way. The SRW would allow for the water meter and vault to occupy space within the private lands, and the ability for the City to operate and access the water vault.

Two covenants are no longer being proposed. The first is for the removal and subsequent undergrounding of the BC Hydro power poles on Russell Street. BC Hydro recently discontinued the program that provided funding for undergrounding of powerlines. Without this third-party funding, the undergrounding becomes unviable due to the significant cost. The second covenant being removed is for the securing the private amenities. Staff no longer believe this covenant is necessary, as much of it can be secured through the landscape deposit and Development Permit that is required at the Building Permit stage.

Transportation Demand Management

The proposal has removed one underground level of parking which increases the parking variance. As previously discussed, an improved TDM program is therefore required to offset this variance. The recommended motion would secure this improved TDM program.

This application was received after July 21, 2021; therefore, the Tree Protection Bylaw 21-035 applies. 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 neighborhoods. This application is to develop within the Victoria West neighbourhood, which, for the size of the neighbourhood, has moderately low canopy cover at 23.1%. For context, city-wide canopy coverage is currently 26% and the Urban Forest Master Plan recommends canopy cover of 40% for residential neighbourhoods.

Tree Preservation

A total of 10 trees were inventoried, none of which are on the subject lot. Five bylaw-protected, and two undersized trees are located on the neighbouring lot at 414 Dundas Street. The remaining three trees are municipal and located on the Esquimalt Road frontage.

Three of five bylaw-protected trees and one undersized tree on the neighbouring property are proposed for removal due to construction impacts from underground parking. The Tree Protection Bylaw requires 11 trees to be planted to meet the Tree Minimum, which the application achieves. The applicant provided a letter from the neighbouring property owner outlining their agreement to obtain tree removal permits to remove and replace the Bylaw-protected trees proposed for removal on their property at 414 Dundas Street. One new municipal tree is proposed on the Russell Street frontage within a new 2.2m wide boulevard.

Tree Status	Total # of Trees	Trees to be REMOVED	NEW Trees	NET CHANGE
Subject property trees, protected	0	0	11	+11
Subject property trees, unprotected	0	0	9	+9
City trees	3	0	1	+1
Neighbouring trees, protected	5	3	3	0
Neighbouring trees, unprotected	2	1	0	-1
Total	10	4	23	+19

*Municipal trees are not included in totals

There is still outstanding information that staff recommend providing prior to a Public Hearing and has been included in the recommended motion. The requested information has been sent to the applicant, but in summary staff are seeking a revised Arborist Report, a Tree Impact Summary and Tree Preservation Summary with additional tree retention information. This would also require revised landscape plans with any updated information.

Financial Implications

Summarized in the table below are the annual maintenance costs that would be incurred by the city following the planting of one new street tree.

Increased Inventory	Annual Maintenance
New municipal trees (one net new) Non-Irrigated	\$75 (TBD)
New Boulevard	TBD

CONCLUSIONS

The proposal remains generally consistent with the Employment-Residential designation and advances numerous goals and objectives in the OCP, including increasing the rental housing stock, encouraging alternative modes of transportation, increasing the commercial viability of the Esquimalt Road corridor and improving the placemaking and urban design of the area.

Furthermore, the proposed development is generally consistent with the relevant Design Guidelines, provides visual interest and access to sunlight for the properties to the north through its split building design and provides ample public and private amenity space. Therefore, staff recommend that Council consider advancing this application to a Public Hearing.

ALTERNATE MOTION

That Council decline Rezoning Application No. 00794 for the property located at 480 and 492 Esquimalt Road.

Respectfully submitted,

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Development Services Division

Karen Hoese, Director
Sustainable Planning and Community
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Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: Committee of the Whole Report dated July 28, 2022
- Attachment B: Minutes from Committee of the Whole Meeting dated August 4, 2022
- Attachment C: Plans date stamped June 6, 2023
- Attachment D: Letter from applicant to Mayor and Council submitted April 5, 2023