



Council Report

For the Meeting of December 14, 2023

To: Council **Date:** November 30, 2023

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

Subject: **Update to Rezoning Application No. 00729 for 251 Esquimalt Road, 355 Catherine Street and 210 Kimta Road and associated Official Community Plan Amendment**

RECOMMENDATION

That this report be received for information and that the following bylaws be given first and second readings:

1. Official Community Plan Bylaw, 2012, Amendment Bylaw (No. 53) No. 23-109
2. Zoning Regulation Bylaw, Amendment Bylaw (No. 1327) No. 23-110.

EXECUTIVE SUMMARY

The application came before Council on November 9, 2023, where the following resolution was approved:

Rezoning and Official Community Plan Amendment Application No. 00729

1. *That Council instruct the Director of Sustainable Planning and Community Development 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 that would authorize the proposed development outlined in the staff report dated October 12, 2023, for 251 Esquimalt Road, 355 Catherine Street and 210 Kimta Road.*
2. *That first and second reading of the zoning bylaw amendment be considered by Council and a public hearing date be set no later than January 18, 2024 once the following conditions are met:*
 - a. *Revised rezoning package noting a maximum of one storey for any new structures within DA-1 (heritage building area).*
 - b. *Submission of revised Design Guidelines to simplify the content and give more flexibility to future building designs.*
 - c. *Updated Seismic Assessment on each of the heritage structures.*
 - d. *Updated Heritage Conservation Strategy, to be consistent with the contents of the design guidelines and masterplan.*
 - e. *Submission of a Sewage Attenuation Report for the entire development to determine the sanitary, storm and water requirements.*

- f. *Submission of an updated Traffic Impact Assessment, to reflect mode share trends in trip generation rates, a multi-modal level of service assessment of the new site access, and trip assignments consistent with the masterplan to determine the transportation requirements.*
 - g. *Updated Transportation Demand Management (TDM) that includes a commitment to the BC Transit EcoPASS and ProPASS programs, and further details on the proposed e-bicycle share.*
3. *That subject to approval in principle at the public hearing, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Sustainable Planning and Community Development and form satisfactory to the City Solicitor prior to adoption of the bylaw:*
- a. *A Master Development Agreement that secures the following:*
 - i. *The proposed public amenities including park improvements, unobstructed access over the proposed public spaces and ongoing maintenance of the public amenities including those attributed to the rail corridor and multi-use pathway; public park features be installed as part of DA-3 Development Permit (amenities sequencing F) or before.*
 - ii. *Adaptable features within 20% of the residential units.*
 - iii. *Housing Agreements to secure both the affordable housing and purpose-built rental sites.*
 - iv. *The provision of at least 483m² of floor area for a childcare centre, for a minimum period of twenty years; and that the proponent offer as right of first refusal, the ability of the Vic West Community Association to serve as operator.*
 - v. *Noise and nuisance mitigation measures, including noise studies and rail studies at the Development Permit stage by engineers with the relevant expertise, to ensure livability and safety for occupants and visitors; That the applicant request a Noise Exposure Forecast (NEF) from Transport Canada, operator of the Victoria Harbour Airport, as per Transport Canada Policy TP1247 and to make public a development disclosure statement regarding the NEF and its request to Transport Canada, prior to the first Development Permit Application.*
 - vi. *TDM measures to the satisfaction of the Director of Engineering and Public Works, including:*
 - a. *10 car share co-op vehicles and associated EV spaces*
 - b. *5 free-floating car share EV spaces*
 - c. *Car share memberships for all residential units and commercial businesses*
 - d. *10% of required bicycle parking designed for oversized for cargo bicycles*
 - e. *50% of required bicycle parking with access to an electric outlet*
 - f. *Bicycle and mobility scooter maintenance and wash stations for all residential buildings*
 - g. *End-of trip facilities with showers and lockers for buildings with non-residential use*
 - h. *Rain canopies for short-term bicycle and mobility scooter parking*
 - i. *TDM marketing and promotion*
 - j. *E-bike share program*
 - k. *Transit pass program*
 - l. *Active transportation network improvements.*
 - vii. *Provision of the following public realm improvements to the satisfaction of the Director of Engineering and Public Works:*

- a. *The detailed design, supply, and installation of a new traffic signal, with all associated hardware (poles, bases, junction boxes, conduits, loops, etc.) and software, at the intersection of Esquimalt Road and the new site access (just east of the Stores building) with intersection configuration and frontage on Esquimalt Road determined by the Director of Engineering and Public Works following the submission of a revised Traffic Impact Assessment.*
- b. *The detailed design, supply, and installation of a new traffic signal, with all associated hardware (poles, bases, junction boxes, conduits, loops, etc.) and software, at the Intersection of Esquimalt Road and Sitkum Road.*
- c. *The detailed design, supply, and installation of traffic signal upgrades at Catherine Street and Esquimalt Road with curb realignment, required hardware (poles, bases, junction boxes, conduits, loops, etc.) and software upgrades to adjacent traffic signals that may be required due to lane configuration changes.*
- d. *The detailed design, supply, and installation of a new pedestrian crossing including bulb outs, signage, wheelchair ramps, traffic calming, and lighting to improve pedestrian safety and visibility on both sides of Kimta Road at Lime Bay Park.*
- e. *The detailed design, supply, and installation of a relocated multi-use pathway crossing to align with the E&N rail trail, including all works on both sides of Catherine Street and at the intersection of Kimta.*
- f. *The detailed design, supply, and installation of any required upgrades to rail facilities and rail crossings.*
- g. *Wheelchair ramps, tactile indicators, sidewalk alignment changes, and associated pedestrian accessibility improvements.*
- viii. *Interim landscaping or fencing throughout the construction of the development.*
 - i. *The proposed Heritage Rehabilitation Work.*
 - ii. *Sewage attenuation if required.*
 - iii. *The cash-in-lieu contribution for a community space in Victoria West.*
 - iv. *Wind studies that are due prior to approval of any Development Permit.*
 - v. *Protection, preservation, restoration and maintenance of an existing Garry Oak rocky knoll, labeled as the 'Garry oak Gateway' with a site area of approximately 539m² in accordance with the site plan, and construction adjacent to the Garry oaks follow the recommendations in the arborist report dated October 3, 2023 and prepared by Talmak Urban Forestry Consultants Ltd, to minimize impacts on the protected Garry oak trees and associated ecosystem*
 - vi. *Soil cells and adequate soil volumes, tree grates, guards, irrigation and drainage for all trees on and off site where planted in hardscape conditions*
 - vii. *A Statutory Right of Way (SRW) of 7m, running parallel to the rail corridor, for the purpose of public enjoyment and active transportation mobility opportunities such as, but not limited to, pathways, planting areas (trees, grass etc.), seating and lighting to the satisfaction the Director of Engineering and Public Works.*
 - viii. *A Statutory Right of Way (SRW) and covenant of 10m for the purpose of preserving the re-aligned rail corridor for highest and best transportation use, including but not limited to passenger rail, to the satisfaction the Director of Engineering and Public Works.*
 - ix. *Statutory Rights of Way (SRW) on portions of the subject lands adjacent to Esquimalt Road, Catherine Street, and Kimta Road, to accommodate accessible sidewalks, treed boulevards, to the satisfaction of the Director of Engineering and Public Work.*

- x. *Statutory Rights of Way (SRW) on portions of the subject lands adjacent to Esquimalt Road to accommodate a transit plaza area to the satisfaction the Director of Engineering and Public Works.*
 - b. *Satisfaction of outstanding items for the proposed development as directed by Council on May 18, 2023, including any additional legal agreements or provisions in the Master Development Agreement that are required to address those items, assessing and meeting fire demand water requirements, utility relocations and confirmation of and commitment to the BC Transit EcoPASS and ProPASS programs.*
- 4. *That adoption of the zoning bylaw amendment will not take place until all of the required legal agreements that are registrable in the Land Title Office have been so registered to the satisfaction of the City Solicitor.*
- 5. *That subject to adoption of the zoning bylaw amendment, Council authorize the excavation and occupancy encroachments in Sitkum Park (200 Kimta Road) during construction of immediately adjacent development areas at the fee of \$15/day for each 13 square meters of encroachment and \$750/day for each square metre of excavation face supported by anchor rods, with form and contents satisfactory to the City Solicitor, the Director of Engineering and Public Works, and the Director of Parks, Recreation and Facilities.*
- 6. *That the above Recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.*

The applicant has now fulfilled the necessary conditions to allow a public hearing date to be set. This report also provides an update site planning and on new information received from Transport Canada, regarding potential impacts of the proposed development on the harbour airport operations.

BACKGROUND

The purpose of this report is to provide an update for Council on the OCP amendment and concurrent Rezoning Application for 251 Esquimalt Road, 355 Catherine Street and 210 Kimta Road. Since the application was presented to Committee of the Whole on October 26, 2023, the applicant has worked with staff to address the public hearing conditions set by Council. To achieve a Public Hearing date of January 18, 2024 or earlier, bylaw introductory readings must occur on December 14, 2023. In addition, this report provides an update on site planning details related to proposed uses, as well as, information on the potential impact of the proposed increase in building height on the operations of the harbour airport.

ISSUES & ANALYSIS

Site Planning

The applicant has requested that the hotel use be able to be split amongst two buildings, but there would still be a limit on total floor area equivalent to that of only one building. This gives the flexibility that should market conditions not justify one single, large hotel, then two smaller buildings that split residential and hotel uses could be constructed.

A public playground has not been identified within the site at this time. The applicant has indicated that the public realm vision for the project is to encourage active, engaging and interactive public realm design throughout the development that is aimed at an 8 to 80 age user group. Opportunities will be provided for children's play space within amenity areas such as on podium roofs, which can be determined at the Development Permit stage.

Development Area 1, which includes the heritage buildings as well as a pavilion at the corner of Esquimalt Road and Catherine Street, has been split into DA-1a and DA-1b. DA-1a is now solely for the pavilion, which would allow for up to a four-storey building. However, the overall density is not being increased above 4.58 FSR, so commercial floor area would need to be transferred from somewhere else on the site should the applicant wish to propose this larger pavilion in the future. DA-1b encompasses the three heritage buildings.

Harbour Airport Operations

New information has been provided by Transport Canada, that the proposed location and heights of some of the buildings on the Roundhouse lands would conflict with an existing harbour airport obstacle limitation surface or OLS (the airspace around the airport runway that must be maintained free from obstacles to permit the safe operations and prevent the runway from becoming unusable by the growth of obstacles around the runway). However, Transport Canada has indicated it is likely that the impacted OLS can be offset by approximately 12 degrees to the west, which would accommodate the current Roundhouse proposal but would limit development heights in Victoria West immediately to the west of the Roundhouse lands. At present, the OCP envisions six storey buildings to the west of the Roundhouse lands, which would not conflict with the OLS, but taller buildings in this area may not be possible in the future without impacting airport operations.

CONCLUSION

The Official Community Plan amendment and rezoning bylaws are now ready for introductory bylaw readings. Remaining outstanding items are likely to be received between introductory bylaw readings and the Public Hearing, and the airport operations can likely continue with minimal impact. It is recommended that Council consider introducing the bylaws and proceeding to a public hearing in January.

Respectfully submitted,

Mike Angrove
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Development Services Division

Karen Hoese, Director
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Development Department

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A - Official Community Plan Bylaw, 2012, Amendment Bylaw (No. 53) No. 23-109
- Attachment B - Zoning Regulation Bylaw, Amendment Bylaw (No. 1327) No. 23-110