

E. **BYLAWS**

E.1 **Bylaws for 251 Esquimalt Road, 355 Catherine Street and 210 Kimta Road:
Update to Rezoning Application No. 00729 and associated Official
Community Plan Amendment**

Moved By Councillor Gardiner

Seconded By Councillor Dell

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

CARRIED UNANIMOUSLY



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.*

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
Senior Planner – Development Agreements
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 - Official Community Plan Bylaw, 2012, Amendment Bylaw (No. 53) No. 23-109
- Attachment B - Zoning Regulation Bylaw, Amendment Bylaw (No. 1327) No. 23-110

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the Official Community Plan to allow a sizable addition in density and height of the lands known as 251 Esquimalt Road, 355 Catherine Street and 210 Kimta Road, and to replace the existing Roundhouse Design Guidelines with new design guidelines, based on the current development proposal which contemplates an increase in density to 4:58:1 and an increase in height of up to 32 storeys.

Under its statutory powers, including Division 4 of the *Local Government Act*, the Council of the Corporation of the City of Victoria in an open meeting enacts the following provisions:

- 1 This Bylaw may be cited as the “OFFICIAL COMMUNITY PLAN BYLAW, 2012, AMENDMENT BYLAW (NO. 53)”.
- 2 Bylaw No. 12-013, the Official Community Plan Bylaw, 2012, is amended in Section 21: Neighbourhood Directions, by adding the following strategic direction directly after 21.28.7:

“21.28.8 The Roundhouse site may be appropriate for a sizable addition in density and height where other objectives of the Official Community Plan are being met, such as but not limited to provision of affordable and rental housing, protection of heritage assets, inclusion of public spaces and improving connectivity within Victoria West.”

- 3 Bylaw No. 12-013, the Official Community Plan Bylaw, 2012, is further amended in Appendix A: Development Permit Areas and Heritage Conservation Areas, DPA 13: Core Songhees by striking out “(2008)” in 2(b)(5) and replacing it with:

“(2023)”

- 4 Bylaw No. 12-013, the Official Community Plan Bylaw, 2012, is further amended in Appendix A: Development Permit Areas and Heritage Conservation Areas, DPA 13: Core Songhees by striking out “(2008)(revised 2015)” in the first bullet of 5(b)(iii) and replacing it with:

“(2023)”

READ A FIRST TIME the _____ day of _____ 2023

READ A SECOND TIME the _____ day of _____ 2023

Public hearing held on the _____ day of _____ 2024

READ A THIRD TIME the

day of

2024

ADOPTED on the

day of

2024

CITY CLERK

MAYOR

PART 12.12 – CD-12 ZONE, ROUNDHOUSE DISTRICT**12.12.1 Regulations in the CD-12 Zone**

- a. This Zone is divided into Development Areas 1 to 9 as shown on the map attached as Appendix 1. Development Area 1 contains sub areas DA-1a and DA-1b and Development Area 2 contains sub areas DA-2a and DA-2b.
- b. All regulations in this Zone apply to all Development Areas, unless expressly stated otherwise.
- c. Notwithstanding Section 19 of the General Regulations:
 - i. A lot may contain more than one building.
 - ii. A building may straddle a lot or Development Area boundary.
- d. Vehicle parking for a building located within one Development Area or lot may be located in a different Development Area or lot within this Zone, and may straddle a Development Area or lot boundary, provided that an easement, and a covenant in favour of the City of Victoria, are registered on title to secure the use of the required parking spaces.
- e. Height is measured using Canadian Geodetic Datum.
- f. Height excludes Rooftop Structures.
- g. Hotel has a maximum Floor Area of 27,500m² across the Roundhouse Lands, which can be divided amongst a maximum of two buildings.
- h. The following will be excluded from Floor Area calculations:
 - i. Floor Area of up to twelve railway rolling stock/rail cars located on site for interpretive/attraction purposes, retail, food and beverage service or exhibition space;
 - ii. Architectural features such as a rail themed water tower or viewing platform;
 - iii. Non-habitable open-sided structures that are used for weather protection, or temporary exhibition and commercial uses; and
 - iv. Other non-habitable structures that:
 - A. are temporarily placed or constructed for a period of not more than 30 consecutive days; and
 - B. are used for exhibition and commercial uses.

12.12.2 Definitions

In this Zone:

- a. “Brew Pub (beer, spirits, wine)” means facilities used for the consumption of beer, spirits, wine or other alcoholic beverages which are produced and manufactured on the premises and which may be provided in combination with Food and Beverage Service or Retail Trade.
- b. “Canadian Geodetic Datum” means the Canadian Geodetic Vertical Datum of 2013.
- c. “Food and Beverage Service” includes the operation of catering establishments, portable food vendors, cafes and restaurants.
- d. “Floor Area” is measured to the interior surface of the exterior walls of buildings and includes the area of any mezzanine, exterior hallway, exterior staircase, loft or partial storey, and excludes the following:

Words that are underlined see definitions in Schedule “A” of the Zoning Regulation Bylaw

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- i. The area of any balcony, veranda, exposed deck, patio or roof;
 - ii. The area of any crawlspace or basement;
 - iii. The area of Rooftop Structures; and
 - iv. The area that is used to provide bicycle parking required by this bylaw.
- e. “Hotel” means a commercial use that provides transient accommodation for the travelling public accessed by contiguous common space, all, including the contiguous common space, under a single ownership, and
- i. is not the principal residence of the operator;
 - ii. includes a motel and a motor hotel; and
 - iii. must include a staffed service desk and may include accessory amenities such as but not limited to a Food and Beverage Service or meeting rooms.
- f. “Multi-use pathway” means a portion of the E&N Rail Trail right-of-way on the Roundhouse Lands linking Sitkum Road and Catherine Street.
- g. “Railway easement” means the corridor set aside on the Roundhouse Lands for the operation of the E&N Railway and successive railway companies linking Sitkum Road and Catherine Street.
- h. “Residential” means a self-contained Dwelling Unit of any type, including Assisted Living, Residential care facilities, Studio uses containing dwelling uses and a dwelling unit associated with an artist’s or artisan’s Studio.
- i. “Retail Trade” means the retail sale, repair, servicing, or refurbishment of consumer goods other than automobiles or automotive fuels, but does not include liquor retail store or storefront cannabis retailer.
- j. “Rooftop Structure” means antennas, elevator penthouses, elevator landings, stair access and landings, mechanical equipment, chimneys, ventilation systems, solar heating panels, green roof systems and similar structures that project above a roof, are non-habitable and which may be enclosed or unenclosed.
- k. “Roundhouse Lands” means all the lands shown outlined in heavy broken line on the map attached as Appendix 1 to these CD-12 Zone Regulations.
- l. “Studio” means a purpose-designed work space for an artist or artisan engaged in an art or craft that is compatible with Residential uses, which may include an associated dwelling unit and in which works produced in the Studio may be sold.
- m. “Utility” means infrastructure that is used to provide water, sewer, drainage, district heat, gas, electrical, or telecommunications service whether located on, above or below ground and includes pump stations and service vaults and kiosks but does not include sewage treatment plants.

12.12.3 Permitted Uses

The following uses are permitted in all Development Areas:

- a. Assembly
- b. Civic Facility

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- c. Cultural Facility
- d. Food and Beverage Service
- e. Office
- f. Personal Service
- g. Public Building
- h. Retail Trade
- i. Studio
- j. Utility

12.12.4 Floor Space Ratio

- a. Floor space ratio for all Development Areas combined (maximum) 4.58:1
- b. Each Development Area has a maximum Floor Area assigned to it under this bylaw, however, any Development Area may exceed its maximum Floor Area in accordance with Sections 12.12.4.c to 12.12.4.e provided that:
 - i. the overall density of the Roundhouse Lands does not exceed 4.58:1;
 - ii. the additional Floor Area is transferred from another Development Area;
 - iii. the additional Floor Area is transferred within the following groups of uses:
 - i. commercial; and
 - ii. residential and hotel.
- c. Any Development Area may exceed its maximum residential Floor Area by up to 10%.
- d. Any Development Area may exceed its maximum commercial Floor Area by up to 50%, provided that the commercial Floor Area of the Development Area from which the Floor Area is transferred must not be reduced by more than 50%.
- e. Floor Area must not be transferred from Development Area 1.

12.12.5 Vehicle and Bicycle Parking

- a. Vehicle parking (minimum) Subject to the regulations in Schedule “C”
- b. Bicycle parking (minimum) Subject to the regulations in Schedule “C”

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12.12.6 Development Area 1

- a. Permitted uses
 - i. Brew Pub (beer, spirits, wine)
 - ii. Commercial Exhibit
 - iii. Drinking Establishment
 - iv. Financial Service
 - v. Light Industrial
 - vi. Liquor Retail Store

- b. Floor Area (maximum) 3800m²

- c. In this Section 12.12.6, Floor Area located within a mezzanine is exempt from the calculation of Floor Area.

- d. Height (maximum)
 - DA-1a 35m
 - DA-1b 19m

- e. Setbacks
 - From a railway easement 3.0m
 - From a street 2.0m

PART 12.12 – CD-12 ZONE, ROUNDHOUSE DISTRICT**12.12.7 Development Area 2**

- | | |
|--------------------------------------|-----------------------------------------------------------------------------------------|
| a. Permitted uses | i. Brew Pub (beer, spirits, wine) |
| | ii. Drinking Establishment |
| | iii. <u>Financial Service</u> |
| | iv. <u>Home Occupation</u> , subject to the regulations in Schedule D – Home Occupation |
| | v. Hotel |
| | vi. <u>Liquor Retail Store</u> |
| | vii. Residential |
| | |
| b. Floor Area within DA-2a (maximum) | |
| For residential or hotel uses | 22,039m ² |
| For all other uses | 311m ² |
| | |
| c. Floor Area within DA-2b (maximum) | |
| For residential or hotel uses | 21,676m ² |
| For all other uses | 524m ² |
| | |
| d. <u>Height</u> (maximum) | |
| DA-2a | 108m |
| DA-2b | 99m |
| | |
| e. <u>Setbacks</u> | |
| From a railway easement | 3.0m |
| From a <u>street</u> or park | 2.0m |

PART 12.12 – CD-12 ZONE, ROUNDHOUSE DISTRICT

12.12.7 Development Area 3

- a. Permitted uses
 - i. Brew Pub (beer, spirits, wine)
 - ii. Drinking Establishment
 - iii. Financial Service
 - iv. Home Occupation, subject to the regulations in Schedule D – Home Occupation
 - v. Hotel
 - vi. Residential

- b. Floor Area (maximum)

For residential or hotel uses	19,060m ²
For all other uses	800m ²

- c. Height (maximum) 90m

- d. Setbacks

From a railway easement	9.0m
From a multi-use pathway	2.0m
From a <u>street</u> or park	2.0m

PART 12.12 – CD-12 ZONE, ROUNDHOUSE DISTRICT

12.12.7 Development Area 4

- a. Permitted uses
 - i. Brew Pub (beer, spirits, wine)
 - ii. Drinking Establishment
 - iii. Financial Service
 - iv. Home Occupation, subject to the regulations in Schedule D – Home Occupation
 - v. Hotel
 - vi. Residential

- b. Floor Area (maximum)

For residential or hotel uses	24,165m ²
For all other uses	325m ²

- c. Height (maximum) 114m

- d. Setbacks

From a railway easement	9.0m
From a multi-use pathway	2.0m
From a <u>street</u>	2.0m

12.12.7 Development Area 5

- a. Permitted uses
 - i. Home Occupation, subject to the regulations in Schedule D – Home Occupation
 - ii. Hotel
 - iii. Residential

- b. Floor Area (maximum)

For residential or hotel uses	19,975m ²
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- c. Height (maximum) 105m

- d. Setbacks

From a railway easement	9.0m
From a multi-use pathway	2.0m
From a <u>street</u>	2.0m

Words that are underlined see definitions in Schedule “A” of the Zoning Regulation Bylaw

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12.12.7 Development Area 6

- | | | |
|-------------------------------|------|-------------------------------------------------------------------------------------|
| a. Permitted uses | i. | <u>Home Occupation</u> , subject to the regulations in Schedule D – Home Occupation |
| | ii. | Hotel |
| | iii. | Residential |
| b. Floor Area (maximum) | | |
| For residential or hotel uses | | 15,385m ² |
| c. <u>Height</u> (maximum) | | |
| | | 70m |
| d. <u>Setbacks</u> | | |
| From a railway easement | | 9.0m |
| From a multi-use pathway | | 2.0m |
| From a <u>street</u> | | 2.0m |

12.12.7 Development Area 7

- | | | |
|----------------------------|------|-------------------------------------------------------------------------------------|
| a. Permitted uses | i. | <u>Financial Service</u> |
| | ii. | <u>Home Occupation</u> , subject to the regulations in Schedule D – Home Occupation |
| | iii. | Residential |
| b. Floor Area (maximum) | | |
| For residential uses | | 15,378m ² |
| For all other uses | | 372m ² |
| c. <u>Height</u> (maximum) | | |
| | | 87m |
| d. <u>Setbacks</u> | | |
| From a railway easement | | 3.0m |
| From a <u>street</u> | | 2.0m |

Words that are underlined see definitions in Schedule “A” of the Zoning Regulation Bylaw

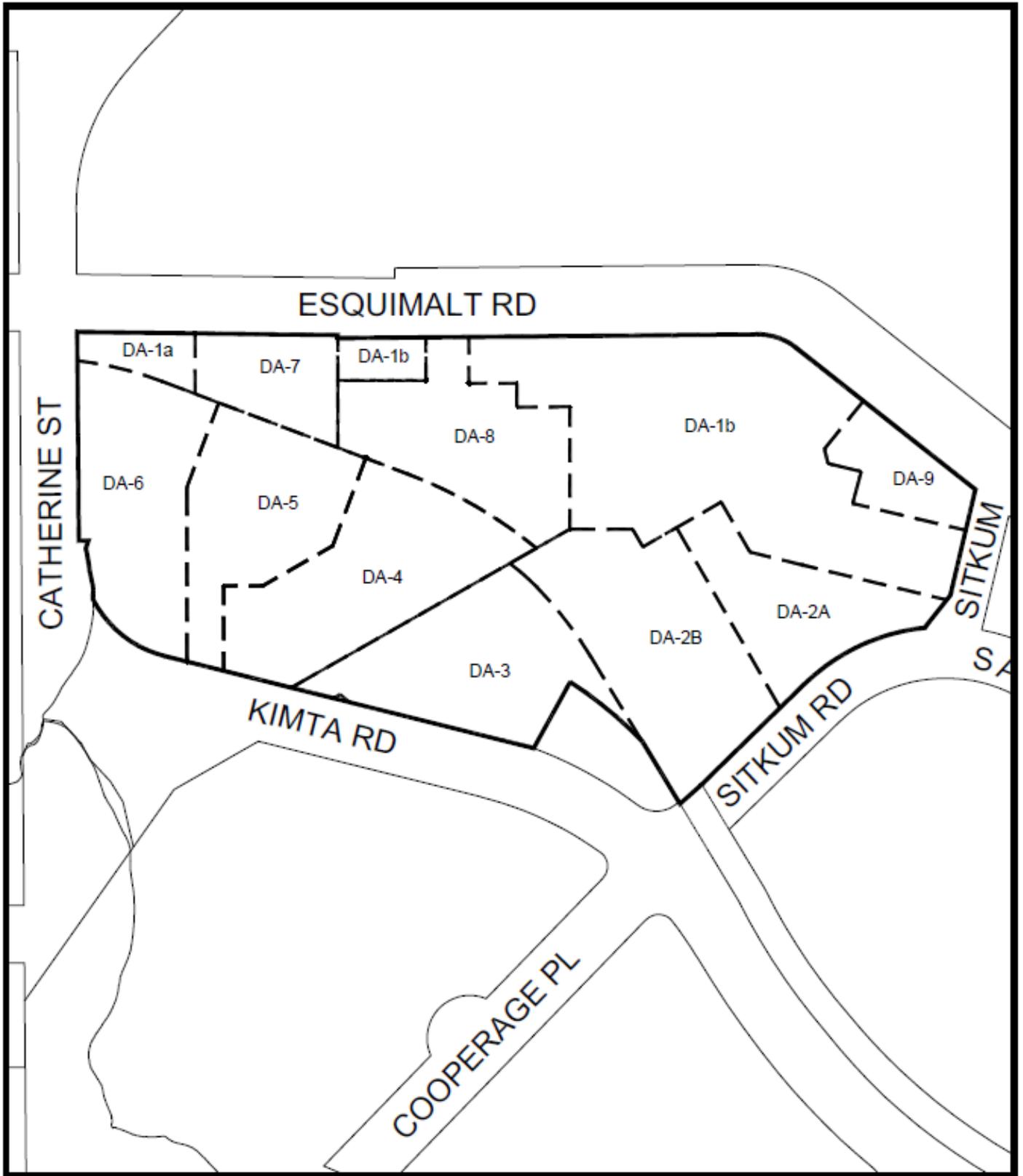
PART 12.12 – CD-12 ZONE, ROUNDHOUSE DISTRICT

12.12.7 Development Area 8

- | | | |
|----------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. Permitted uses | | <ul style="list-style-type: none"> i. Brew Pub (beer, spirits, wine) ii. Drinking Establishment iii. <u>Financial Service</u> iv. <u>Home Occupation</u>, subject to the regulations in Schedule D – Home Occupation v. <u>Liquor Retail Store</u> vi. Residential |
| b. Floor Area (maximum) | | |
| | For residential uses | 18,968m ² |
| | For all other uses | 372m ² |
| c. <u>Height</u> (maximum) | | 90m |
| d. <u>Setbacks</u> | | |
| | From a railway easement | 3.0m |
| | From a <u>street</u> | 2.0m |

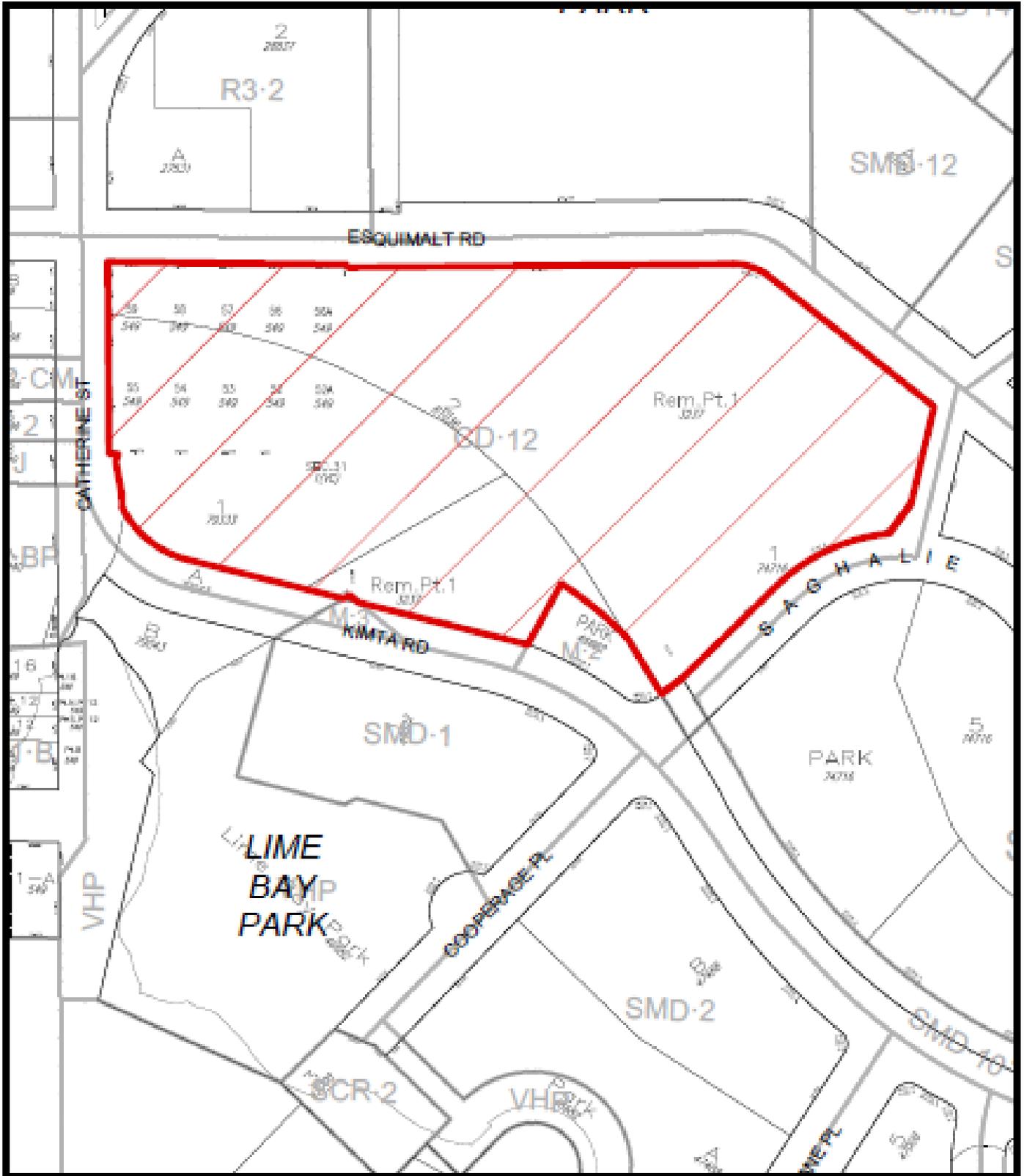
12.12.7 Development Area 9

- | | | |
|-----------------------------------------|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| e. Permitted uses | | <ul style="list-style-type: none"> i. Brew Pub (beer, spirits, wine) ii. Drinking Establishment iii. <u>Financial Service</u> iv. <u>Home Occupation</u>, subject to the regulations in Schedule D – Home Occupation v. Hotel vi. Residential |
| f. Floor Area (maximum) | | |
| | For residential or hotel uses | 6580m ² |
| g. <u>Height</u> (maximum) | | 50m |
| h. <u>Setbacks</u> from a <u>street</u> | | 2.0m |



Appendix 1
Development Areas
Roundhouse District





251-259 Esquimalt Road, 45 Saghalie Road,
 355 Catherine Street & 200-210 Kimta Road
 Rezoning No.00729

