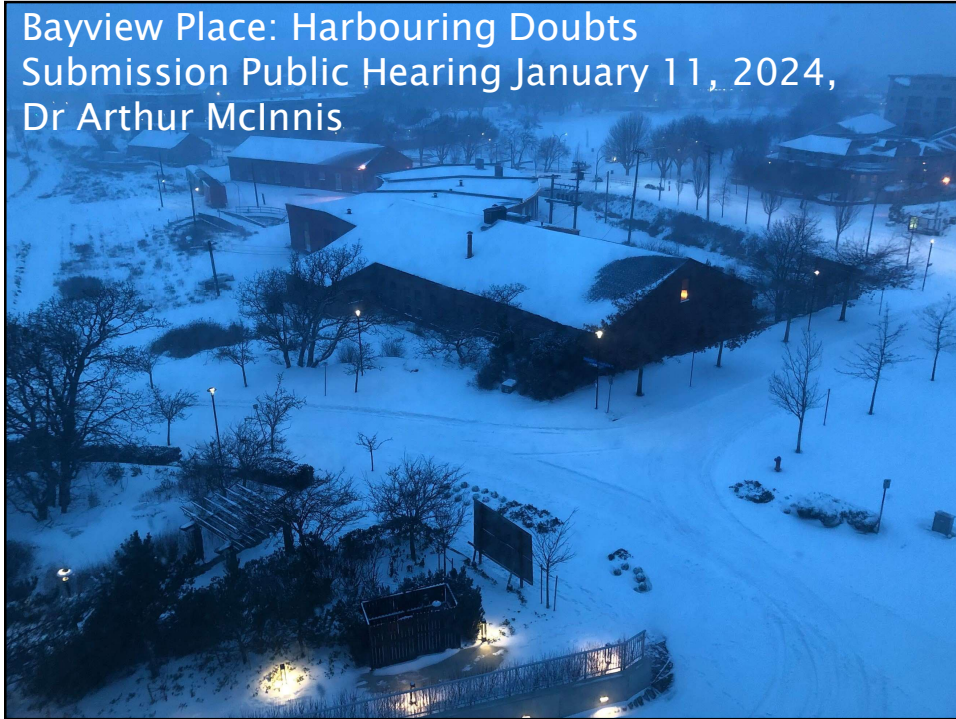


Bayview Place: Harboursing Doubts  
Submission Public Hearing January 11, 2024,  
Dr Arthur McInnis



1

## Outline

- Misleading Hoardings
- The Petitions
- Due Diligence is Required
- The 2008 Rezoning
- Bayview Contradicts Broad Objectives in the Official Community Plan
- Density is Inconsistent with OCP – Staff
- Height out of Character
- Height and Density together Too Much
- Density Disclaimers
- Independent Building Massing Drawings

2

## Outline

- The Application Contacts
- Hotels
- No Frank Gehry Cultural Centre
- Affordable Housing
- Breach of the Master Development Agreement
- Focus Equities
- City of Victoria
- *G.S.R. Capital Group Inc. v. White Rock (City)* 2022 BCCA 46
- Vic West Neighbourhood Plan
- Bayview Place from Google Earth
- Big Excuses
- Lisa Helps, Homes for Living and the Provincial Government

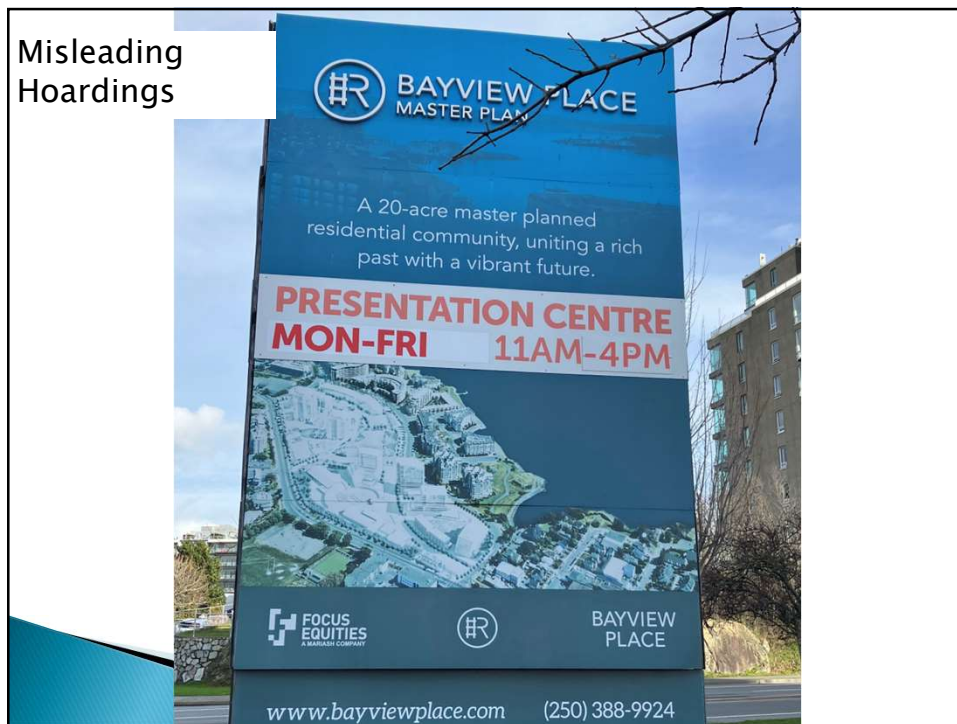
3

## Outline

- Architectural Renderings
  - Classic Bird's Eye Views
  - Eye-level Perspective Views
  - Sketch-like Graphics
  - Shadow Diagrams
  - Planimetric Drawings
  - Solutions
- The Colliers Report
- The Stantec Report
- The Coriolis Report
- City Notices – It's Your Neighbourhood
- Sustainability – The Missing Remediation Report
- Councillors' Code of Conduct
- The Bottom Line
  - Jeremy Caradonna's final words

4

## Misleading Hoardings



5



6



## Misleading Hoardings



7

## The Petitions



8



## The Petitions

- We, the undersigned, wish to express our strong opposition to the current Rezoning Application for the Roundhouse Development Site at Bayview Place - REZ00729 # 251 - # 259 Esquimalt Road, 45 Saghalie Road, 355 Catherine Street and #200 - #210 Kimta Road.
- Our primary reasons for opposing the project as it is currently proposed are as follows:
- It more than doubles the current zoning density for the area
- The current proposal is 9 buildings (3 which may be hotels) now instead of the prior approved 5 buildings!

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## The Petitions

- It contradicts the first amended rezoning from 15+ years ago drastically, which Focus Equities sought and had approved by the City in exchange for agreeing to refurbish the Roundhouse and heritage properties which has yet to happen
- It offends the Victoria West Neighbourhood Plan. The Songhees pathway, roads and parks will be overrun with people, pets & vehicles if the current number of buildings/hotels are approved
- The views from tourists and people arriving via the harbour will look like the Vancouver waterfront; this is not what people come to Victoria to see or enjoy
- It will overshadow and diminish the Roundhouse and heritage properties. The Heritage Advisory Panel voted against the proposal

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## The Petitions

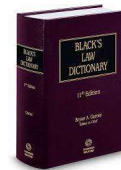
- Voting, tax-paying residents of Victoria have been expressing significant concerns and opposition to this project for the last couple of years
- The City Council rejected the advice of City Planning Staff to reduce the density
- The site contamination and remediation plan is unclear
- There are no guarantees the retail held out for the Roundhouse will even be built let alone successful even if all the buildings are built (per Colliers Strategy and Consulting)
- The City of Victoria has not carried out a due diligence exercise with respect to the developer
- THEREFORE DENY THE APPLICATION TO REZONE

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## Due Diligence is Required

- ▶ Definition and Legal Meaning
  - *due diligence*: Such a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent [person] under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case.

- *Blacks Law Dictionary (online)*, 2<sup>nd</sup> Ed.



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## Due Diligence is Required

Bayview Place <https://bayviewplace.com> holds out:

- “REGARDED AS ONE OF NORTH AMERICA’S MOST VISIONARY DEVELOPERS, Kenneth and Patricia Mariash of Focus Equities have developed, purchased and sold more than 15 million square feet of real estate and more than 10,000 residential condominium units in North America.”
- Who regards Focus Equities as one of North America’s most visionary developers?
- List the location, date, name of development, and Focus Equities’ exact role regarding these “more than 15 million square feet...and 10,000 residential condominium units in North America.”

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## Due Diligence is Required

- “Founded over 50 years ago, Focus Equities provides...” according to <https://bayviewplace.com> yet Focus Equities <https://focusequities.com> states: “[f]ounded over 35 years ago by Canadian entrepreneur and visionary Ken Mariash, Focus Equities has...”
- So when was Focus Equities founded, 50 years ago or 35 years ago?
- How many companies named Focus Equities (in part) has Ken Mariash or Patricia Mariash controlled? Have any of these companies been wound up, suspended or struck off a company register?

14



## Due Diligence is Required

- “With his (Kenneth William Mariash, Sr) baccalaureate degrees in mathematics, science, business, accounting and architecture, plus an MBA...”  
<https://focusequities.com>
- Please list when and by whom these six degrees were conferred.

15

## Due Diligence is Required

- Please confirm whether Ken Mariash and Patricia Mariash have architecture degrees and ever been registered and entitled to practise as architects in British Columbia or elsewhere.\* <https://focusequities.com>
- Ken Mariash has stated: “[w]hen I sit with an architecture firm, I don’t care how famous they are, they will not have done as many big projects as we have,” said Mariash. “I usually end up doing all the design myself.”
- Quoted by Richard Watts, Times Colonist Nov 12, 2017
- Similarly, Patricia Mariash describes herself as “THE INTERIOR ARCHITECT/OWNER...”

16

## Due Diligence is Required

- \*Resolution of the Architectural Institute of BC on Illegal Practice of Kenneth William Mariash Sr and Patricia Mariash

### Recent Illegal Practice Resolutions

Effective Date	Posted On	Summary
2021-10-06	2021-10-29	Kenneth William Mariash Sr. & Patricia Mariash of Focus Equities Inc. were using an unauthorized title on their company's website and other third-party websites. Mr. and Mrs. Mariash took the necessary steps to address AIBC's concerns and corrected the misrepresentations.

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## Due Diligence is Required

- “After doing hundreds and hundreds of one-off downtown towers in 20 or 30 cities around the world, I just wanted to do more bigger-scale neighbourhood designing and district planning,” Mariash said.
- Please list all details of the “hundreds and hundreds of one-off downtown towers in 20 or 30 cities around the world” Ken Mariash has done.
- Per Steve McLean, Renx.ca Real Estate News Exchange in an article dates Oct 17, 2017 entitled “Focus Equities’ Mariash sets sights on master plans”.

18

## Due Diligence is Required

- “For more than 40 years, Patricia A. Mariash has been a commercial real estate entrepreneur, investor and commercial interior designer who has successfully completed thousands of prestigious corporate headquarters at notable, high rise architecture addresses.”
- Please list all details of the “thousands of prestigious corporate headquarters” Patricia Mariash has successfully completed.

19

## Due Diligence is Required

- ▶ \$200 Million or \$150 million
  - *“We have been spending approximately \$1 Million per month on this project over the last 200 months and cannot sustain such a cost much longer before the site must be broken up and sold off for single-building projects instead of a cohesive master planned community.”* Ken Mariash, April 26, 2022
  - *“With carry costs of over \$1 Million per month, we have already spent over \$150 Million on zoning and rezoning.”* Ken Mariash, Bayview Place Invitation Letter, December 8, 2023

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## Why Due Diligence is Required

- ▶ William Shakespeare
  - “What’s past is prologue”
  - Antonio, The Tempest, Act 2, Scene 1

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## The 2008 Rezoning

- ▶ “In exchange for saving the rare intact railyard designed in 1912 — with industrial roots going back to the era of coal baron Robert Dunsmuir — the developer wants to build larger buildings than would normally be allowed on one part of the site. **Mariash says the overall density wouldn’t exceed what’s already permitted in the Songhees area.**”
  - Sept 30, 2007, Properties in Victoria, Professionals, <https://propertiesinvictoria.com/victoria-bc-real-estate-theroundhouse-project/>

22



23

## Bayview Contradicts Broad Objectives in the Official Community Plan

- ▶ 8 (a) That urban design at every scale from sites to local areas is responsive to Victoria's geographic context and existing pattern of development, achieves excellence, and creates memorable places.
- ▶ The rezoning contradicts Victoria's geographic context and existing pattern of development.

24

## Bayview Contradicts Broad Objectives in the Official Community Plan

- ▶ 8 (b) That the views from the public realm of existing landmarks are maintained, and that new landmarks are introduced to enhance the visual identity and appearance of Victoria and to improve wayfinding around the city.
- ▶ Rezoning will not enhance the visual identity and appearance of Victoria.
- ▶ *Identity*: the fact of being who or what a person or thing is (Oxford Dictionary).
- ▶ Bayview Place is not who or what Victoria is.

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## Bayview Contradicts Broad Objectives in the Official Community Plan

- ▶ 8 (c) That new buildings and features contribute to the sense of place in development permit areas and heritage conservation areas through sensitive and innovative responses to existing form and character.
- ▶ Heritage conservation is one of the rationale for amending the current zoning bylaws.
- ▶ But the zoning already permits this and it has not been done.
- ▶ It is neither sensitive nor innovative to the existing form and character of the Roundhouse – essentially per City Planning Staff and Heritage Advisory Panel.

26



## Bayview Contradicts Broad Objectives in the Official Community Plan

- ▶ 8 (d) That social vibrancy is fostered and strengthened through human scale design of buildings, streetscapes and public spaces.
- ▶ There is nothing about the proposals which strengthens human scale design of buildings. In fact, it is the complete opposite.

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## Bayview Contradicts Broad Objectives in the Official Community Plan

- ▶ 8 (e) That each neighbourhood is connected and integrated to the Urban Core, other neighbourhoods and to the region through urban design elements.
- ▶ Unusually the Bayview site sits next to the urban core so this is less of an issue. The new bridge and Esquimalt corridor already achieves this and thus the proposals cannot be a justification for seeking to meet this objective.

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## Bayview Contradicts Broad Objectives in the Official Community Plan

- ▶ 8 (f) That the built environment is beautified and softened through natural features in the public realm.
- ▶ The problem here is that the proposed density is so great that there is almost no space left for natural features in the public realm that would beautify or soften the built environment. The development itself is too all consuming.

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## Bayview Contradicts Broad Objectives in the Official Community Plan

- ▶ 8 (g) That a sense of place is developed and enhanced through urban design features.
- ▶ A sense of place will be difficult to achieve because it is being overwhelmed and overshadowed by the development itself.
- ▶ Comparisons have been made to Granville Island which 'has been regarded internationally as a model of vibrant urban placemaking.'
- ▶ But if one looks at Granville Island you will see that there are no high rises there. (Granville Island 2040: Bridging Past & Future, 2021  
<https://granvilleisland2040.ca>)

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## Bayview Contradicts Broad Objectives in the Official Community Plan

- ▶ 8 (l) That heritage and cultural values are identified, celebrated, and retained through community engagement.
- ▶ Agreed. However, while there is agreement with this thus far the proposals provide few details aside from repurposed boxcars etc. There is a Focus Equities video which includes a clip of David Foster but this is not meaningful without details.

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## Density is Inconsistent with OCP – Staff

- ▶ City of Victoria Planning Staff Report, April 20, 2023
  - “The proposal exceeds the density of 2.5:1 which is envisioned in the Official Community Plan, 2012 (OCP) Core Songhees Urban Place Designation, and at 4.75 FSR would be inconsistent with the OCP’s placemaking and urban design policies...”
  - “The proposal is inconsistent with the envisioned height and density of 16 to 23 storeys and 2.5 FSR found in the Victoria West Neighbourhood Plan.”



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## Density is Inconsistent with OCP – Staff

- ▶ City of Victoria Planning Staff Report, April 20, 2023
  - “The proposals at 4.75 FSR appears inconsistent with achieving high quality architecture and urban design in a way that ensures adequate protection for the E & N transportation corridor, respects the heritage precinct and overall OCP policies geared towards positive placemaking.”
  - THUS City Planning Staff are saying “too dense” and yet the City overrules them.
  - This is NOT ‘responsible’ development.
  - The Staff are more qualified than the Councillors to make this decision.



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## Height out of Character

- ▶ Again the heights are 32, 29, 29, 27, 25, 24, 23, 18 and 10
- ▶ By comparison, the tallest building in Downtown Victoria is currently Hudson Place listed at 25 stories. Therefore, this ONE SITE will have the tallest, 2nd tallest, 3rd tallest and 4th tallest, tied with the 5th tallest and 6th tallest and 7<sup>th</sup> tallest buildings in Victoria
- ▶ By comparison the coming Telus Ocean building just approved for downtown is only 11 stories and that was fought over.
- ▶ The tallest building on the Bayview site is almost 3 times the height of the Telus Ocean building.
- ▶ **This should NOT be approved!**

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## Height and Density Together too Much

- 217 stories
- 1900 units
- Significantly exceeding height and FSR density limits
- Large footprint – many buildings with substantial podiums
- Partial covering of Landscape Knoll
- Dramatically diminishing the 6 heritage buildings

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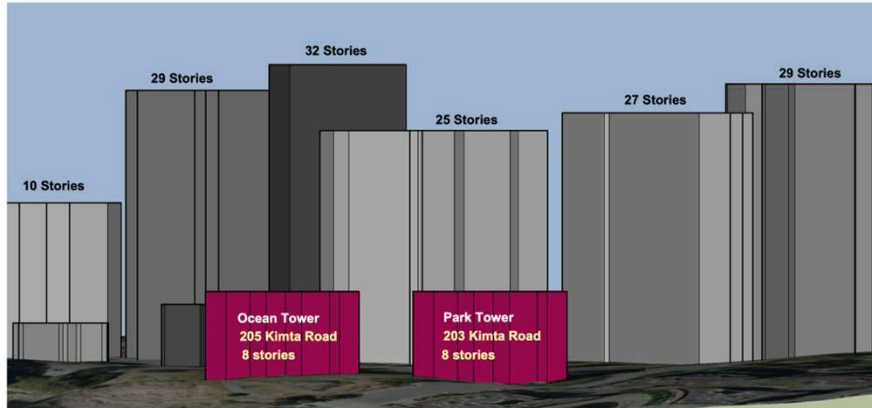
## Density Disclaimers

- ▶ \* “4.75 FSR is the proposed zoning limitation / All numbers and calculations are approximate only and subject to change.”
- ▶ “A Floor Space Ratio of 4.75 is the proposed density for the overall rezoning of the site. As with other contemporary CCD-zoned sites, the zoning is intended to allow for some flexibility in distribution of density between development cells located across the site (conditions to be outlined in the MDA and to be confirmed at Development Permit stage). **The density allocations identified in this rezoning application for each development area are based on the concept massing and layout as prepared in support of this application, and are subject to change at time of each Development Permit Subdivision.**”
- ▶ “Please note that this application does not exceed a density of 4.8 FSR indicated to CALUC in August 2021.”

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**This is the "vision" Focus Equities has for our Vic West neighbourhood.\***

*\*Images prepared by an architectural designer based on official drawings from the Bayview/Roundhouse proposal submission documents and visuals from Google Earth. Except for slight variations around the exact locations of the roundhouse buildings at the back of the property, these images are approximately 98% accurate to within a few feet.*



**ROUNDHOUSE BAYVIEW PLACE: View from Strait of Juan De Fuca**

**IF YOU HAVE A DIFFERENT VISION, PLEASE ATTEND OUR TOWN HALL MEETING AND LEARN WHAT YOU CAN DO TO MAKE YOUR VOICE HEARD BY OUR MAYOR & COUNCIL. WE ENTRUSTED THEM TO PLACE OUR COMMUNITY INTERESTS BEFORE THE PROFIT INTERESTS OF DEVELOPERS. YOUR SUPPORT IS NEEDED NOW!**

**When: Wednesday, December 13th, 7PM Where: Trafalgar Pro Patria Legion, 411 Gorge Road, East, Victoria**

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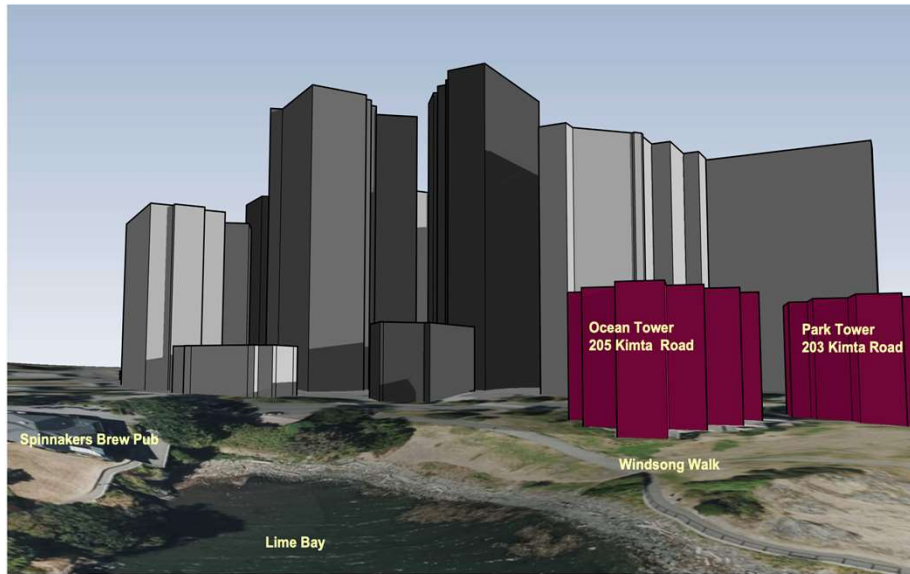
## Independent Building Massing Drawings



**ROUNDHOUSE BAYVIEW PLACE: View from Victoria International Marina**

38

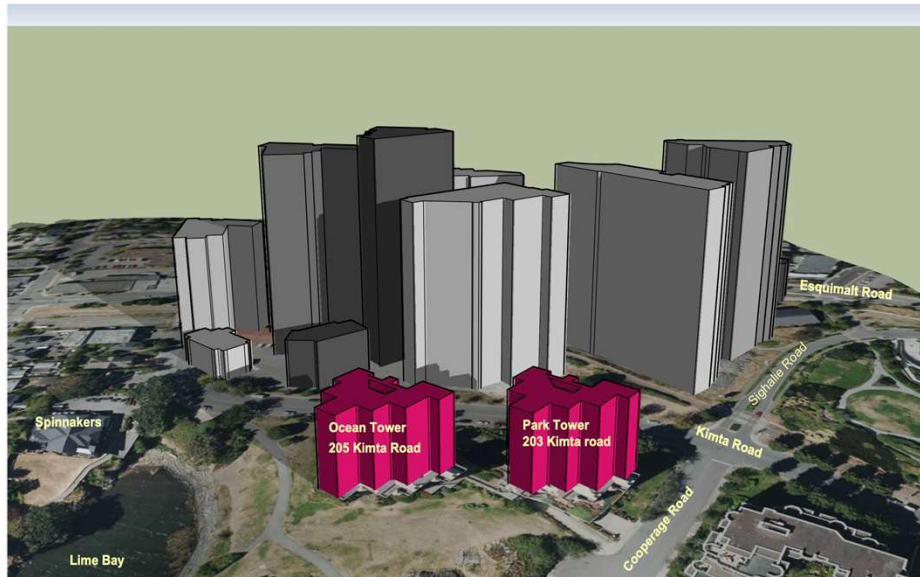
## Independent Building Massing Drawings



**ROUNDHOUSE BAYVIEW PLACE: View from Lime Bay**

39

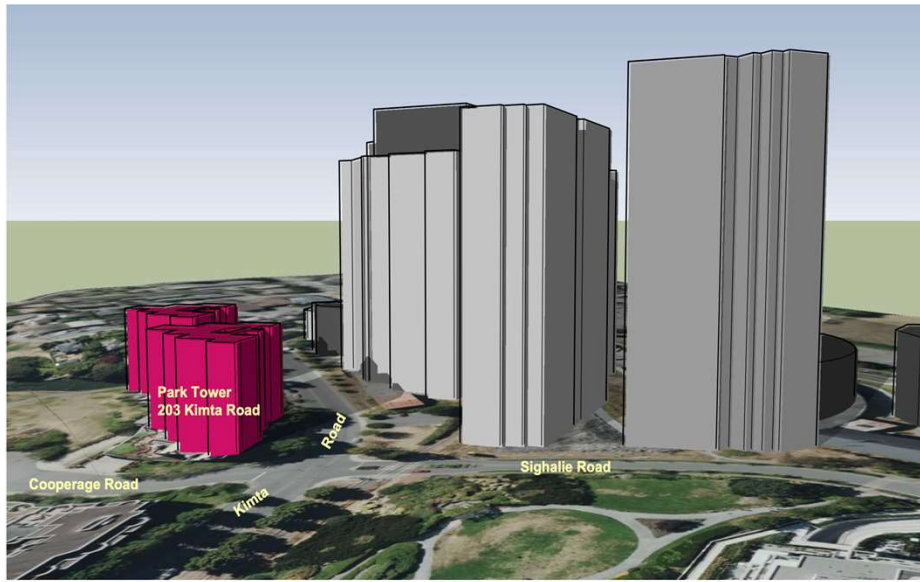
## Independent Building Massing Drawings



**ROUNDHOUSE BAYVIEW PLACE: Aerial View from Inner Harbour**

40

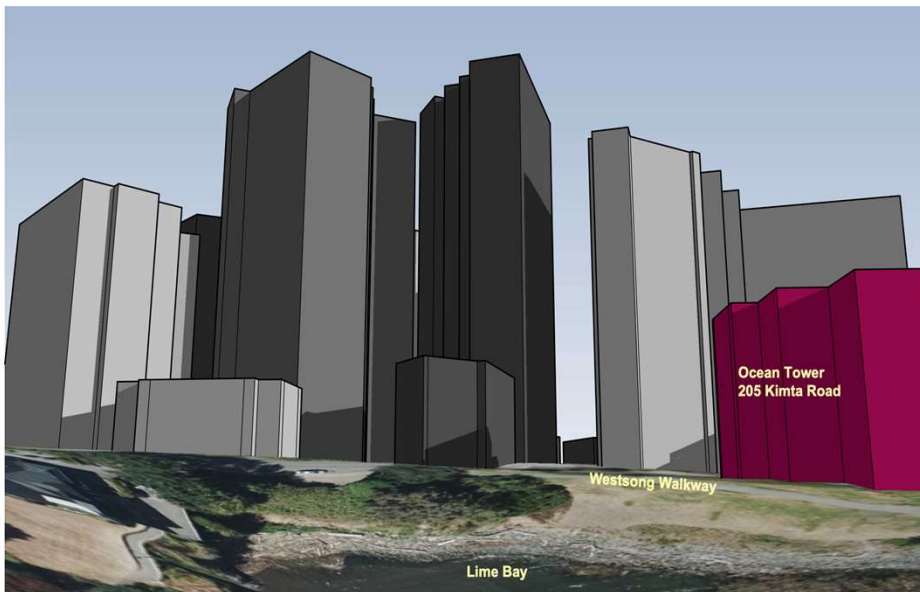
## Independent Building Massing Drawings



**ROUNDHOUSE BAYVIEW PLACE:** View from Bayview 1

41

## Independent Building Massing Drawings



**ROUNDHOUSE BAYVIEW PLACE:** View from Spinners Brew Pub

42

## The Application Contacts

- ▶ Patrick Cotter – ZGF – key individual now gone missing
- ▶ Jonathan Tinney – replaced Cotter, former Chief Planner for City of Victoria, was responsible for 4 Neighbourhood Plans including Vic West which this application now flies in the face of

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## Hotels

- ▶ The plans leave open that three hotels may be built on site instead of residential towers

HOTELS

Hotels

Hotels

HOTELS

HOTELS

HOTELS

44



## No Frank Gehry Cultural Centre

- ▶ In the Bayview Place promotional video Ken Mariash says, while pointing out a very large area between what appears to be DA4 and DA5 on the new application, (though differently configured):
- ▶ “...and here a kind of a cultural district that we’re looking at a performance facility there with David Foster and the architect Frank Gehry and he’s also participating in the design of these two buildings in conjunction with that...”.

*\* Another original asterisk - Note: If included, will come out of proposed density*

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## No Frank Gehry Cultural Centre



Guggenheim Bilbao Museum by Frank Gehry

Walt Disney Concert Hall by Frank Gehry



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## Affordable Housing

- ▶ Here are five reasons why Focus Equities may be “donating” some land:
  1. To set a benchmark value for the other plots
  2. To generate good will with the City
  3. To deflect criticism of removal of the “Naturalized Landscape Knoll”
  4. Growing public opposition to the rezoning
  5. It has no alternative as 8% is supposed to be included

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## Affordable Housing

- ▶ The original caveat and first asterisk in the application
  - \*Affordable housing site and development parcel. The proposed affordable housing development is subject to future design and development permit approvals by a non-profit affordable housing developer and operator to a maximum of the values and criteria identified in this proposed zoning

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## Affordable Housing

- ▶ Now the second asterisk in The Memorandum of Understanding (MOU) entered into between Bayview Place LP and the Greater Victoria Housing Society dated Feb 2, 2022 states at the top:
  - “This document is not binding and does not create enforceable legal rights or obligations and is only intended by the parties to create a common understanding of their mutual goals.”

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## Breach of the Master Development Agreement

- ▶ “On November 30, 2017, a Development Permit Application was submitted to the City [by the developer/Focus Equities] proposing a 26-storey, mixed-use building at 210 Kimta Road which is located within Development Area 3 of the CD-12 Zone, Roundhouse District; however, the applicant did not make the necessary cash-in-lieu payment prior to their submission and, therefore, they are currently in breach of the MDA and the application has been placed on hold until the monies are received.”
  - Quote – Per Jonathan Tinney, then Director of Sustainable Planning and Community Development for the City of Victoria and now Focus Equity rep on rezoning application

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## Breach of the Master Development Agreement

- ▶ “We do not like someone to suggest we defaulted on any Master Development Agreement, including here. The requirement to put up the cash-in-lieu for the development permit was a mistake by our group and the city. The MDA was to say at the time of the construction permit when we really start the building...”
  - Quote K.W. Mariash, Draft v 3, Schedule 2 dated December 22, 2023

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## Focus Equities

- ▶ Focus Equities is in the Land Subdivision Industry, Dun & Bradstreet:
  - “[t]his industry group comprises establishments primarily engaged in servicing land and subdividing real property into lots, for subsequent sale to builders”.
  - “We’re a master developer and we subdivide everything into parcels...We’ll carve out one parcel for this guy and one for that guy.”
    - Steve McLean, Oct 17, 2017, ‘Focus Equities’ Mariash sets sights on master plans’, Real Estate News Exchange

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## City of Victoria

- ▶ The City of Victoria has a great deal at stake in considering this matter. Its decision will reverberate for many years and perhaps decades given the time the Bayview project will take years - scheduled at 22 years.
- ▶ If Bayview goes wrong it is very likely that only the City of Victoria will be around to pick up the pieces down the road. In effect this makes the City the ultimate risk bearer and that is why the City needs to proceed cautiously and informedly.
- ▶ The most cautious approach of course is to allow the project to proceed only as approved already and within the confines of the existing zoning bylaws and planning requirements.

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## ***G.S.R. Capital Group Inc. v. White Rock (City) 2022 BCCA 46***

- ▶ In *G.S.R. Capital Group Inc. v. White Rock (City)* 2022 BCCA 46 the BC Court of Appeal ruled in favour of the White Rock City Council and against a developer seeking a building permit to effectively block a project.
- ▶ City Council changed after an election and the new Council disagreed with the earlier decision of Council and effectively downsized the site

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## ***G.S.R. Capital Group Inc. v. White Rock (City) 2022 BCCA 46***

- ▶ Justice Groberman:
  - “Construction had yet to commence, and there was no assurance that it ever would. It is true that G.S.R. was bound by the terms of the development permit, but those terms did not compel it to go ahead with the project. From a grammatical, contextual and purposive standpoint, it was not unreasonable to describe the project as a ‘proposed development’ when G.S.R. made its application for a building permit.”

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## ***G.S.R. Capital Group Inc. v. White Rock (City) 2022 BCCA 46***

- ▶ The Mayor of White Rock after the judgment:
  - "We did what we believed we had to do, and what we had the right to do under the community charter, to try and protect our community and maintain some of the levels within the community in regards to building heights..."
  - "We had hoped all along that there would be some sort of resolution where the two sides could come together and find some common ground..."

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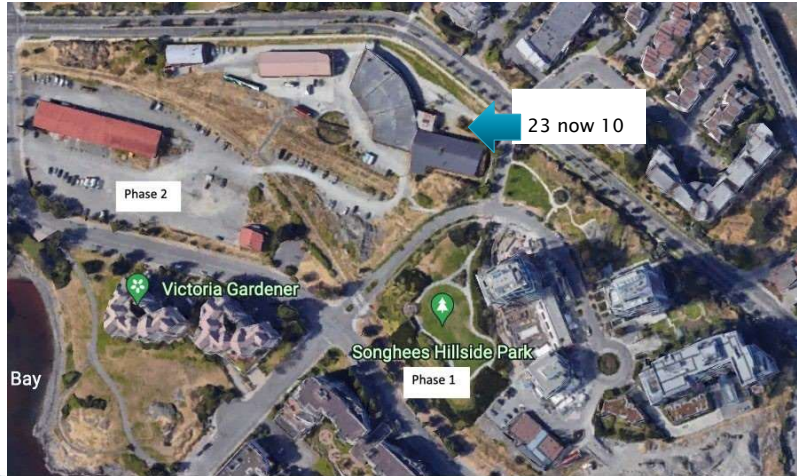
57

## Vic West Neighbourhood Plan

- ▶ The [Vic West Neighbourhood Plan](#) sets out density in 5 classes: traditional residential, urban residential, small urban village, large urban village and core Songhees.
- ▶ The density for these respectively is 1.0, 1.2–2–0, 1.5 – 2.5, and 2.5
- ▶ [Bayview Place](#) nearly doubles this density
- ▶ The highest density is for Master Development Areas in Core Songhees but also anticipates light industrial which Bayview Place is not

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## Bayview Place from Google Earth



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## Big Excuses

- ▶ In promotional materials produced by Focus Equities they purport to explain why they are not complying with the Master Development Agreement and building what was agreed.
- ▶ Both the City and Focus Equities have some questions to answer in the face of this including on:
  - Rigidity
  - Mandate of a Stepped approach
  - Cost indicators available
  - Other comparables
  - Other barriers to development
  - Whether the current zoning makes project “unbuildable”

60

## Lisa Helps, Homes for Living and the Provincial Government

- ▶ Pressure seems to be coming from at least three sources other than the developer:
  - Lisa Helps
  - Homes for Living
  - The Provincial Government
- ▶ Lisa Helps
  - She endorsed Mayor Alto and Councillors Caradonna, Thompson, Loughton, Dell and Kim
  - Lisa Helps is now the “Housing Solutions Advisor to the Premier’s Office”

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## Lisa Helps, Homes for Living and the Provincial Government

- ▶ Lisa Helps (cont’d)
  - She endorsed Mayor Alto and Councillors Caradonna, Thompson, Loughton, Dell and Kim
  - Lisa Helps is now the “Housing Solutions Advisor to the Premier’s Office”
  - Lisa Helps appeared in the latest Bayview Place advertorial and said:
    - “This is the perfect example of a complete community where there’s something in it for everyone mixed use residential commercial Heritage, historic. It really could be gem on the west part of our city.”
  - Lisa Helps received the maximum donation in her last campaign from Ken Mariash, \$1200.00.

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## Lisa Helps, Homes for Living and the Provincial Government

- ▶ Lisa Helps (cont'd)
  - Homes for Living keeps score on voting in Council on support of housing. One Voting Record published on the last City Council HfL showed both Helps and Alto with “100% scores”.
  - Lisa Helps and Mayor Alto both use the term transformative (and derivatives) to describe Bayview.

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## Lisa Helps, Homes for Living and the Provincial Government

- ▶ Homes for Living
  - Is a lobby or pressure group focused on housing.
  - By keeping a running score on all votes housing related by the Mayor and Council it places pressure on them to approve every housing measure.
  - A similar approach to scoring elected officials only regarding gun measures in the United States places pressure on them

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## Lisa Helps, Homes for Living and the Provincial Government

- ▶ The Provincial Government
  - Bills 44 and 47 indicate housing is a priority for the current Government
  - Although neither is material to the current rezoning such a Government housing priority adds to the pressure on Council.
  - Councillor Caradonna has acknowledged this pressure:
    - “it is true that we are under extraordinary pressure from the Province to deliver on housing.” Email dated October 27, 2023

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## Architectural Renderings

- ▶ “Why you shouldn’t always believe what you see in architectural renderings” Van Sun, Nov 3 Douglas Todd in conversation with Prof Erick Villagomez
- ▶ “Politicians are often approving massive highrise projects based on developers’ manipulative visual renderings. It’s leading to uglier cities.”
- ▶ “As a result, we’re vulnerable to approving development projects that can transform the look and feel of cities based on pretty images of tower complexes, which can turn out to actually be gargantuan, stark and unpleasant.”
- ▶ “Worse, no one takes responsibility for the early false advertising”.
- ▶ Four pages of renderings were shown in a wrap of the Times Colonist on Jan 6th. You decide their value.

66



## Classic Bird's Eye Views

- Birds-eye perspectives prevent an on-the-ground understanding of the project...peppered with seemingly random diagrams, i.e. "Urban Amphitheatre," meant to legitimize their proposed scale.

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69

## Eye-level Perspective Views

- Eye-level perspectives cut off the heights of the towers and are highly misleading.
- To counter this, drawings should have been used which portrayed the full extent of all the buildings and all the buildings' heights done to scale.
- Repetition throughout the application of selective portrayals of only a few buildings in each drawing without their full height and relationship to each other gives a false view of the development.

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## “Sketch-like” Graphics

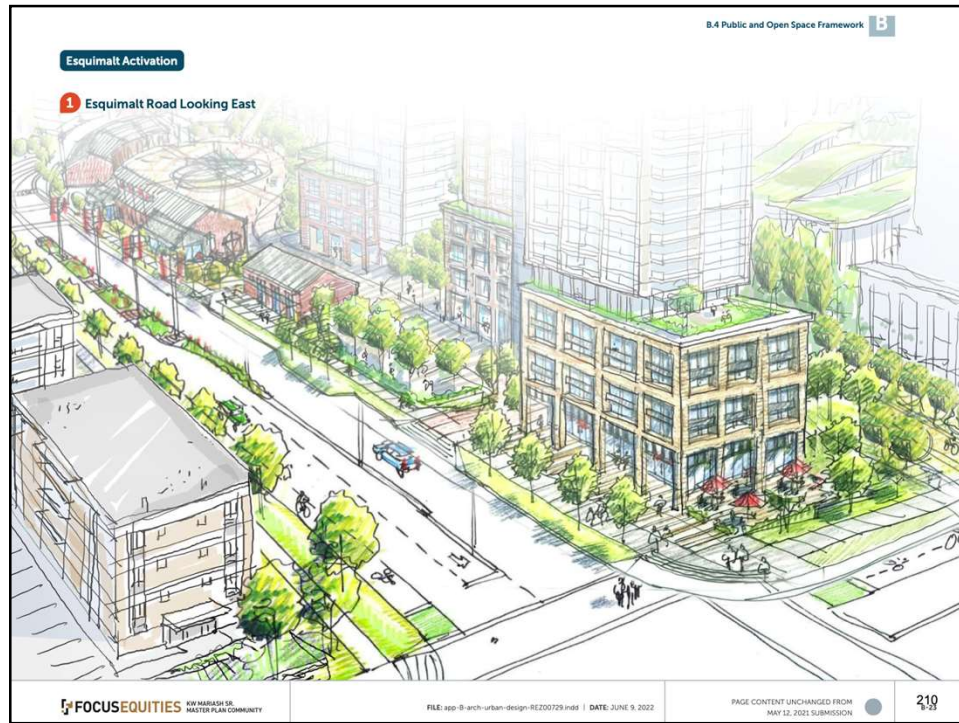
- “Sketch-like” graphics distort the scale while softening the look of the buildings.
- This is furthered by using watercolours to avoid hard lines and aims to create a sense of softness and openness.
- The developer’s drawings exaggerate size and brightness e.g. of the proposed Turntable Plaza.
- The illustrations also accentuate the walkways, greenery and the aligned rail right-of-way to seem more spacious and pleasant.

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72





73



74

## Shadow Diagrams

- The shadow drawings in the application for rezoning at Bayview Place did not show the Winter Solstice/equinox
- Better shadow studies such as using a parametric approach would have provided a much fuller representation of what the effect of the proposed construction will entail.

Spring Equinox - March 21st

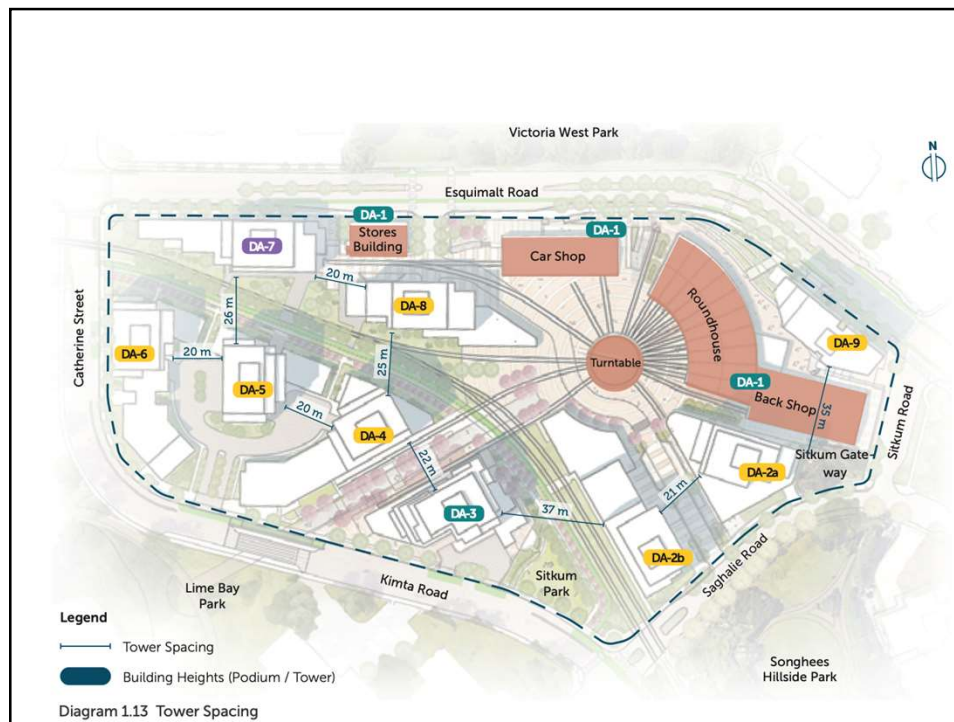


75

## Planimetric Drawings

- Planimetric drawings indicate merely the horizontal circulation in a space through a plan view.
- While this type of architectural diagram is often used for spatial composition and relations, programmes and views, **it tells you nothing about perspective** for example which holds better information on the general appearance of the volumes which ultimately compose architecture

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## Solutions

- ▶ What is the solution per Prof Villagomez
  - Realistic renderings (examples later)
  - Accurate renderings (not adding and not subtracting)
  - To scale
  - Educate the public and Council about this
  - Have Council adopt 3-D interactive digital maps to show the buildings and neighbourhoods
  - Hold those accountable for any inaccuracies
  - Have architects “sign and seal” renderings for public consumption
  - Note Diagrams above taken from submission of Focus Equities in REZ00729 on City Development Tracker website

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- ▶ The Colliers Report is a "nothingburger"
- ▶ It is intended to have **one central purpose**; that is, to make the case for higher density and yet in my view it does not do so convincingly. This is because the difference that the extra density would make is almost a rounding error.

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- ▶ The penultimate conclusion
  - "[b]ased on these costs, along with the additional challenges noted above, it is likely that significant additional density will be required to attract demand from quality tenants that are also willing to pay the lease rates necessary for a financially feasible development scenario."
- ▶ Here is what Colliers is missing:
  - **1. Competition** – The model does not plainly account for the level of competition in the surrounding area, which could impact the demand for retail space at Bayview.

80





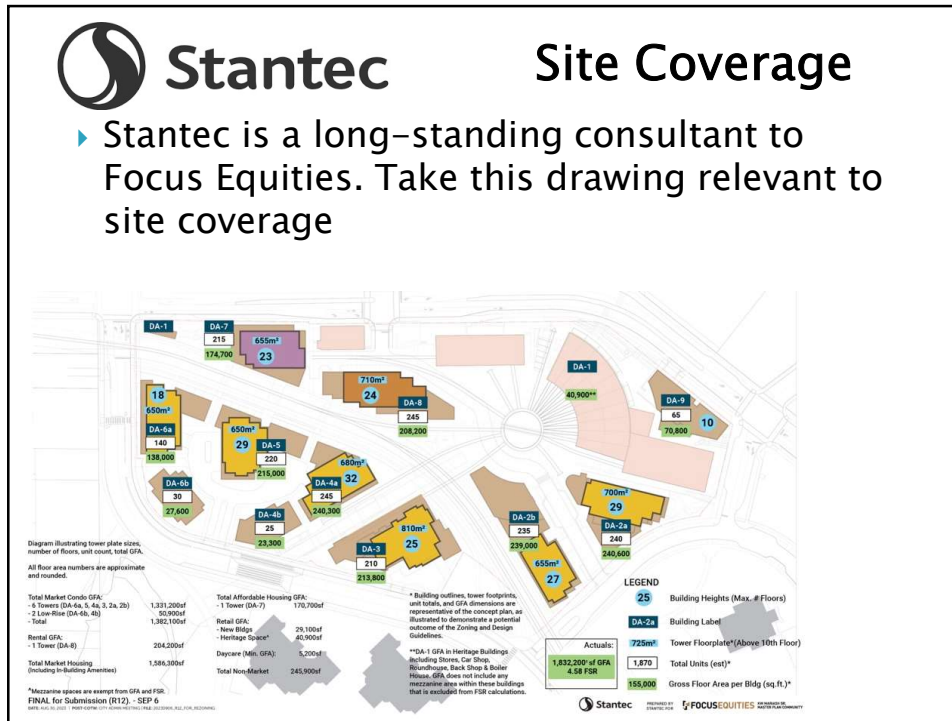
- ▶ Here is what Colliers is missing (cont'd):
  - **2.Demographic Shifts** – Their model does not account for potential demographic shifts that could impact demand during a very long construction period.
  - **3.Changes in Consumer Behaviour** – Their model does not account for potential changes in consumer behaviour that could impact the demand for the retail space.

81

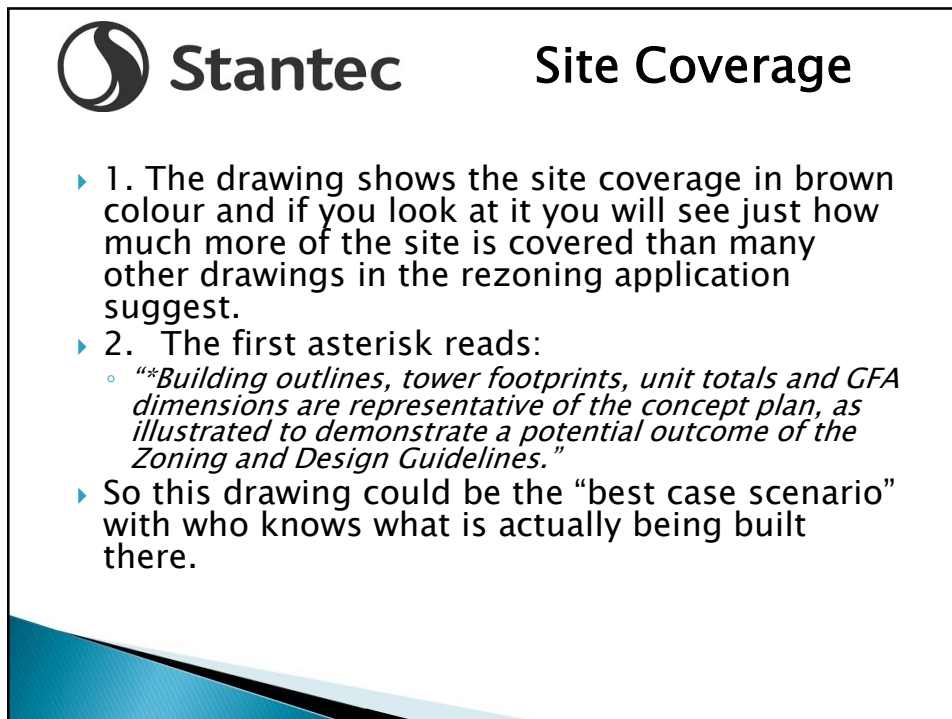


- ▶ Here is what Colliers is missing (cont'd):
  - **4.Economic Downturns** – Their model presumably assumes consistent economic growth and does not account for potential economic downturns that could impact consumer spending and demand for retail space.
  - **5.Shifts in Retail Trends** – Their model does not account for potential shifts in retail trends that could impact the demand for certain types of retail space.

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84



**Stantec**

## Site Coverage

- ▶ 3. The second asterisk reads:
  - *“\*\*DA-1 GFA in Heritage Buildings including Stores, Car Shop, Roundhouse, Backshop & Boiler House GFA does not include any mezzanine area within these buildings that is excluded from the FSR calculations.”*
  - If these were included though it would increase the overall FSR on the site – my guess would be to over 5.00.

85



**Stantec**

## Site Coverage

- ▶ The City has to do better. The Council’s job and the planning staff who report to the Council are there to safeguard our interests and that includes maximum transparency, explanations that the public can understand, and not reflexively accepting interpretations which favour the applicant.

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**Stantec**

## Sewage Flows

- ▶ On Sept 7, 2022 Deb Becelaere, an engineering technologist with Stantec, wrote in a report to the city dated September 7, 2022 what their calculations and conclusions were in this regard on the Bayview site.
- ▶ As the letter states the City of Victoria has a policy in effect concerning new development applications.

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**Stantec**

## Sewage Flows

- ▶ Under the policy all applications for rezoning which result in a potentially larger sewage flow than the original zoning must attenuate the additional flow on-site and release to the municipal system at a rate no higher than the maximum possible peak flow with the original zoning designation.
- ▶ The revised zoning to the Roundhouse site would potentially result in an increased density, and as such, sewage attenuation had to be considered as part of the application so Stantec was retained for this role.

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Stantec

## Sewage Flows

- ▶ Here is the finesse.
  - The calculations of the original sewage flows (pre-development calculations) were performed by Stantec and summarized in a technical report "Roundhouse Development: Sewage Attenuation Calculations" sent to the City of Victoria on April 10, 2012.
  - Using the applicable standards at the time, the 2012 report calculations estimated that the sewage Peak Dry Weather Flow (PDWF) for the site was 33.14 L/s. **But that pre-development site bears almost no relation to what is proposed.**

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Stantec

## Sewage Flows

- ▶ Stantec's assumptions are problematic:
  - – *"We used a 900 foot square condo size as an average size, estimated unit numbers based on this assumption, and estimated 2 People per Condo unit. This is likely a **conservative** population density estimate."*
  - – *"Hotel Density: the same factor as for residential zoning was used, assuming 1 person per 450 square foot...Note that currently the area of the development designated as hotel is unknown, so the hotel areas have **conservatively** been included in the Residential flow calculations" [that is because there might be as many as three hotels we still don't know] [emphasis added]*

90

**Stantec**

## Sewage Flows

- ▶ Importantly, the effect of these *assumptions* is compounded because the Sept 7, 2022 report *is based on their earlier April 10, 2012 report*.
- ▶ The 2012 report too made some assumptions which were noted to be
  - “not...a realistic proposition” and a
  - “scenario presented here [which] is a very unlikely one in practicality”.

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**Stantec**

## Sewage Flows

- ▶ The finesse again
  - You see while the Stantec reports have been presented based on the existing zoning those uses were never going to happen today.
  - Accordingly, the rezoning is predicated on outdated assumptions and scenarios.

92





**Stantec**

## Sewage Flows

- ▶ But, rather than having moved to update the zoning for that site, consistent with the Vic West Neighbourhood Plan and the Official Community Plan, our past City Councils have been asleep at the railroad switch and the present Mayor and City Council are ready to let this derailment happen. That should not be allowed.
- ▶ What City Council should do rather than rezone for Bayview is to rezone and update the site for the realistic, practical and likely uses which we would envision for it today.

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- ▶ Coriolis was commissioned to carry out an economic analysis to determine if rezoning creates an increase in land value to support amenity contributions and/or affordable rental units
- ▶ But the letter was almost ALL financial analysis
- ▶ Left out was the effect of rezoning on potential social and environmental impacts, including on existing businesses, residents and community organizations

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- ▶ Left out a discussion of alternative approaches to achieving the desired outcomes of the proposed rezoning, and an evaluation of the costs and benefits of those alternatives.
- ▶ Left out a detailed assessment of the costs of components such as remediation and servicing
- ▶ Left out how sales were projected and assumptions about market demand
- ▶ Much more should have been required

95

## It's Your Neighbourhood

- ▶ Misleading notices from the City informing of proposed amendments to the OCP
  - "The proposal is consistent with many of the **broad objectives** in the OCP and advances a number of strategic goals related to housing, parks and open space, urban design and placemaking and community well-being."
  - "It is important to note that this designation would not confer any additional development rights to the property beyond those included in the proposed zoning."

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## Sustainability – The Missing Remediation Report

- “The applicant has identified the remediation of the contaminated brownfield site as the main sustainability feature. Additional and more specific features would be introduced as individual phases are developed and would be described in more detail with Development Permit Applications.”
- Page 26 of Report of Karen Hoese, Director, Sustainable Planning and Community Development dated April 20, 2023 presented to the Committee of the Whole on May 4, 2023, (the ‘City of Victoria Planning Staff Report’ on the rezoning application)

97

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Legislative Services  
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Paragraph 2 of Schedule B sets out the Conditions for Approval in Principle including “**Remediation Plan, Songhees Yard Site Re-Development, 251, 253 and 259 Esquimalt Road, 355 Catherine Street, Victoria, BC, SNC-Morrow Environmental, January 29, 2007.**”

This is a critical aspect of the environmental plan for Bayview Place. Given that it is older than any archived materials on the City Council website I need your help in accessing it. The materials in support filed by the applicant for the rezoning purport to include an update in the form of a letter from SLR Consulting (Canada) Ltd (page 2 of 14) dated January 26, 2021. The letter states in part: “[t]he January 2021 Rezoning Application to the City of Victoria for the portion of the site north of the E&N right-of-way is consistent with the overall plan and objectives of the Morrow Remediation Plan, HHRA and approved AIP. SLR does not foresee any issues regarding the conditions listed in the AIP based on the January 2021 Rezoning Application.” Consistency may well be the case, but it cannot be verified without access to the SNC-Morrow Environmental report itself.

*Therefore, I am asking that this report be disclosed as soon as possible. I do not have access to it on either the current City Council website or the Development Tracker website and with an upcoming Public Hearing I wish to review it beforehand.*

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## Councillors' Code of Conduct

### ► Purpose of the new Code of Conduct

NO. 23-058

CODE OF CONDUCT FOR COUNCIL MEMBERS

A BYLAW OF THE CITY OF VICTORIA

- *"to establish standards for the conduct of elected officials in order to promote responsible governance for the City and create a process for investigating complaints about their conduct by an independent third party."*

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## Councillors' Code of Conduct

### ► Three of the four **General Principles** under Standards and Values

- **Integrity:** honest, demonstrate strong ethical principles
- **Accountability:** for their decisions and actions, competent and diligent, and act in the best interests of the City as a whole, without regard to the member's personal interests
- **Leadership and collaboration:** a member must lead, listen to, and positively influence others, conduct duties in an open and transparent manner...

100

## Conflict of Interest, Bias

- ▶ 1. A conflict of interest and apparent breach of the Code of Conduct (Bylaw 23-058) by Mayor Alto; and
- ▶ 2. An apparent breach of the Code of Conduct (Bylaw 23-058) by Councillor Caradonna

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## Conflict of Interest, Bias

- ▶ At the Committee of the Whole Meeting (COTW) in respect of REZ00729 on May 4, 2023, Mayor Alto took the following actions:
  - 1. Abridging and reducing the normal period of action for the City of Victoria (the City) in a matter of this nature from 90 to 60 days;
  - 2. Voting in favour of a motion to expedite the execution of this file with the Mayor stating she wished the file to become paramount in consideration by all staff employed by the City in all departments not only planning; and
  - 3. Not declaring a conflict of interest and recusing herself from discussions when this file came before Council involving as it did Ken Mariash of Focus Equities, and who made the maximum allowable campaign contribution of \$1200 to then Councillor Alto's election campaign in 2018.

102

## Conflict of Interest, Bias

- ▶ Mayor Alto has prejudged the outcome of the upcoming Public Hearing; namely as evidenced by her comment
  - “[i]t is, in fact, something that will be – transformational. This is a vision of the future, which is inevitable.” Times Colonist, “Massive Roundhouse project to go to public hearing in next few months,” 27 October, 2023.
  - Both “transformational,” and “inevitable” give rise to a reasonable apprehension of bias and suggest prejudgment.

103

## Conflict of Interest, Bias

- ▶ Authority
  - Code of Conduct: s4 A member must uphold the following standards and values:
    - (b) accountability: a member must be accountable for their decisions and actions, competent and diligent, and act in the best interests of the City as a whole, without regard to the member’s personal interests.
  - Community Charter: s 101
- ▶ At the Committee of the Whole Meeting in respect of this matter on May 4, 2023, Councillor Caradonna took the following action:
  - 1. Proposing and voting in favour of a motion to expedite the execution of this file ahead of all other files before the City of Victoria in all departments not only planning;

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## Conflict of Interest, Bias

- ▶ Argument in respect of Mayor Alto
  - 1. The Mayor supported the expedition of Bayview over all others before the Council giving rise to a reasonable apprehension of bias.
  - 2. The reduction of the normal notice period for City actions from 90 days to 60 days raises suspicions of an attempt to limit public awareness and involvement.
  - 3. The Mayor's statement that the matter, if passed by the Council, will be "transformational" and is "inevitable" suggests a predetermined outcome.

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## Conflict of Interest, Bias

- ▶ Argument in respect of Mayor Alto: (cont'd)
  - 4. The Mayor's acceptance of the maximum political contribution from the individual who directly benefits from the actions in question raises serious concerns about potential conflicts of interest.
- ▶ The Mayor must recuse herself from further consideration of the OCP amendment and rezoning application.
- ▶ Argument in respect of Councillor Caradonna:
  - By proposing and voting in favour of a motion to expedite the execution of the Bayview file Councillor Caradonna's actions give rise to a reasonable apprehension of bias.
- ▶ Councillor Caradonna must recuse himself from further consideration of the OCP amendment and rezoning application.

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## The Bottom Line

- ▶ Focus Equities seeks to rezone property a second time. It did not deliver on what was agreed the first time.
- ▶ The site has sat undeveloped for 15 years.
- ▶ The City is not the guarantor of Focus Equities but acts like it is.
- ▶ Each successive amendment seems to offer more to Focus Equities and less to the City.
- ▶ The Heritage Buildings have been wrongly used as leverage to gain approval.

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## The Bottom Line

- ▶ Focus Equities has had the benefit of purchasing a heritage site with embedded refurbishment and remediation costs.
- ▶ What it should not then be able to do is say because it still has to pay some costs that it needs more height and density.
- ▶ Sorry, you have had the benefit of that once, and as the saying goes “that ship has sailed”.
- ▶ Now, your costs are your costs. Another developer on a clean site would not get such a concession.

108

## The Bottom Line

- ▶ Ultimately, City Council 2022 should not substitute its view for:
  - 2008 City Council who rezoned originally
  - All other City Councils who passed the Official Community Plan and existing zoning bylaws in 2018, 2014, 2011 and 2008 at a minimum.
  - The City Planning Staff who disagreed with the density
  - The Heritage Advisory Committee who disagreed with the plans and
  - The community who disagrees with Bayview.

109

## The Bottom Line

- ▶ A Fair Compromise
  - The proponent can sell or develop as it wishes the one-half the site rezoned 15 years ago
  - Test the proposition that it must be rezoned for anything to happen
  - A responsible Council would see other sponsors and levels of Government become involved so that it can be done.
  - Not simply rezone as “the best worst option”
  - The City can keep its reputation

110

## The Bottom Line

- ▶ Jeremy Caradonna was right when he said:
  - *“These towers... are out of keeping with the scale and character of Victoria.”*

Email dated Oct 27, 2023

## E & N Roundhouse A National Historic Site



Steve Barber  
Former Senior Heritage Planner (1986 - 2014)  
City of Victoria

1

## A National Historic Site



- *This imposing brick roundhouse is a particularly fine example of an industrial structure associated with the steam railway era in Canada. This site is an important reminder of Canada's rich railway heritage. The Esquimalt and Nanaimo roundhouse complex is the most intact facility associated with the servicing of steam locomotives in western Canada.*

2

## Parks Canada

- A national historic site possesses **commemorative integrity**:
- • when the resources that relate to the reasons for designation of the national historic site or symbolize or represent its importance ***are not impaired or under threat***,

3



4.00 FSR

4



## E & N Roundhouse

- *"The visual relationships between elements of natural or designed landscapes, or heritage districts, can influence the user experience. **For example, a tall building in a low-rise heritage district may be perceived as out of scale.**"*
- Page 67- Guidelines for Cultural Landscapes- Including Historic Districts-Section 4.1.5 Visual Relationships/ **Standards and Guidelines for the \Conservation of Historic Places in Canada**

5



**Proposal for Victoria's Inner Harbour-1970's**

6



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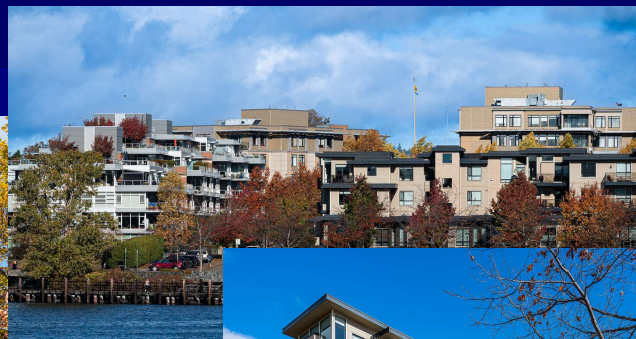


## Railyards



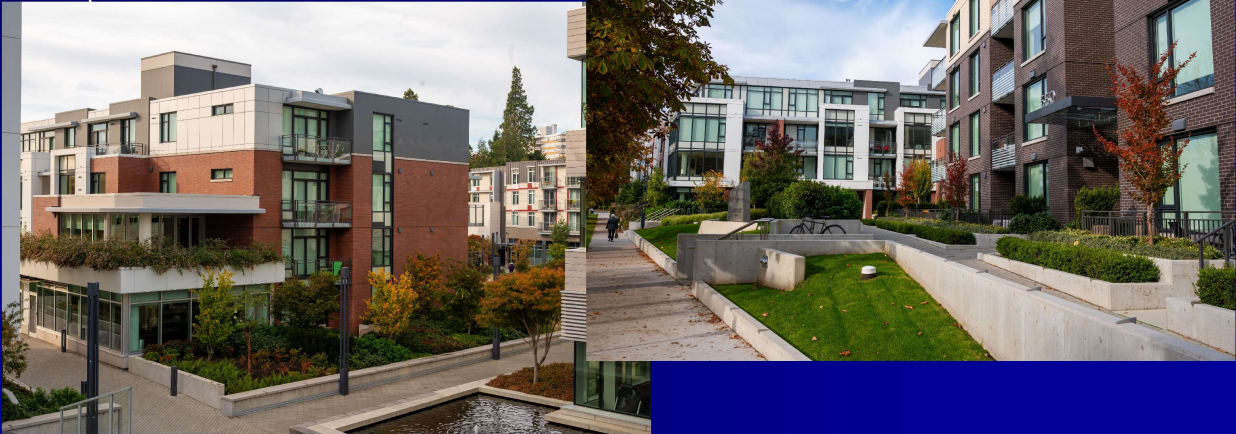
11

## Selkirk Waterfront



12

## Capital Park



13

## Standards and Guidelines for the Conservation of Historic Places in Canada

- Standard 11 states: *Conserve the heritage value and character-defining elements when creating any new additions to an historic place or any related new construction. Make the new work **physically and visually compatible with, and subordinate to and distinguishable from the historic place.***

14

## Guidelines For Engineering Works

- Section 4.4.1
- **Recommended:** Considering the design of an attached exterior addition in terms of its relationship to the engineering work. The design for the new work....should be compatible in terms of **massing**, materials and colour, yet be distinguishable from the historic place.
- **Recommended:** Placing a new addition on a non character defining elevation and **limiting its size and scale in relation to the engineering work.**

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**4.00 FSR**

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