



Committee of the Whole Report

For the Meeting of November 21, 2024

To: Committee of the Whole **Date:** November 7, 2024

From: Karen Hoesse, Director, Planning and Development

Subject: **Update on Rezoning Application No. 00804 and associated Official Community Plan Amendment and Development Permit with Variances Application No. 00191 for 205 Quebec Street, 507 Montreal Street, and 210-224 Kingston Street**

RECOMMENDATION

That Council decline Rezoning Application No. 00804 for 205 Quebec Street, 507 Montreal Street, and 210, 214, 218, and 224 Kingston Street and the associated Official Community Plan Amendment and Development Permit with Variances Application No. 00191.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with an update regarding an OCP Amendment Application, Rezoning Application, and Development Permit with Variances Application for a new 14-storey mixed-use development located at 205 Quebec Street, 507 Montreal Street, and 210, 214, 218, and 224 Kingston Street. The update summarizes results of the *Official Community Plan* amendment consultation and revises the proposal to be consistent with a supplemental letter received from the applicant.

On July 25, 2024, Council passed a motion directing consultation on the proposed OCP amendment. One-hundred and three responses were received in response to the 1,057 notices that were mailed out. Of the 103 responses received, eight (7.8%) indicated they are generally supportive of the proposal and 95 (92.2%) indicated opposition. Additional correspondence received beyond this consultation since the previous Committee of the Whole Meeting has also been attached to this report for Council's consideration. Harbour Air and Transport Canada had not provided a response at the time of drafting this report.

On August 15, 2024 the applicant provided a supplemental letter to the City revising the proposal to increase their contribution to the Housing Reserve Fund from \$460,000 to return it to the previously proposed amount of \$700,000, increase the number of secure cargo bike stalls from five to 11, and to provide a daycare of no less than 153.29m², for a minimum period of ten years. The space would be sold to a not-for-profit provider for no more than \$1 prior to occupancy permit.

It is recommended that Council consider declining the application because the proposed development does not meet the broad objectives of the OCP and is not a suitable built form for this location. However, an alternate motion has been provided if Council chooses to direct staff to prepare the necessary bylaws and move the application forward to a public hearing. This report summarizes all of the legal agreements that would be recommended if it is moved forward, including the proposed changes described in the August 15, 2024 letter from the applicant, in the Inclusionary Housing and Community Amenity Contribution Policy section below.

BACKGROUND

Council Direction: Proposal Revisions

This application for a new mixed-use development consisting of a three-storey podium with a 14-storey tower located at the corner of Quebec Street and Montreal Street and three storey townhouses fronting Kingston Street was initially presented to Committee of the Whole on July 27, 2023 with a 17-storey tower. At that meeting the following motion was passed:

Refer back to staff to work with the applicant to return directly to Committee of the Whole with a modified proposal that's more contextual, with approximate proposed number of homes and/or FSR.

In response to this Council direction, the applicant revised the proposal to reduce the height of the tower while retaining a similar density (see attached staff reports for background).

Council Direction: OCP Amendment Consultation

The revised application was presented to Committee of the Whole on July 11, 2024 (see attached staff reports) and on July 25, 2024, Council passed the following motion directing consultation on the proposed OCP amendment in accordance with the *Local Government Act*:

1. *That Council instruct the Director of Sustainable Planning and Community Development to explore the possibility of amending the Official Community Plan to allow the proposed mixed-use development at this location.*
2. *That Council consider who is affected by proposed changes to the Official Community Plan, and determine that the following persons, organizations and authorities will be affected:*
 - a. *those within a 200 m radius of the subject property*
 - b. *Transport Canada*
 - c. *Harbour Air.*
3. *That Council provide an opportunity for consultation pursuant to section 475 of the Local Government Act, and direct the Director of Sustainable Planning and Community Development to:*
 - a. *mail a notice of the proposed OCP amendment to the persons within a 200 m radius of the subject property*

- b. *post a notice on the City's website inviting affected persons, organizations and authorities to ask questions of staff and provide written or verbal comments to Council for their consideration*
 - c. *write letters to Transport Canada and Harbour Air inviting written comments to Council for their consideration.*
4. *That Council consider that no consultation is necessary with the Capital Regional District Board; Councils of Oak Bay, Esquimalt and Saanich; the Songhees and Esquimalt Nations; the School District Board; or the Provincial government or its agencies because the proposed OCP amendment does not affect them.*
 5. *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 OCP amendment consultation has been completed consistent with this motion and this report provides the responses for Council's consideration.

Supplemental Letter from Applicant

On August 15, 2024 the applicant provided a supplemental letter (attached) to the City revising their proposal to:

- increase their contribution to the Housing Reserve Fund from \$460,000 to return it to their previously proposed amount of \$700,000
- increase the number of cargo bike stalls from five to 11, and
- provision of a daycare of no less than 153.29m², for a minimum period of ten years, and that the space will be sold to a not-for-profit provider for no more than \$1 prior to occupancy permit.

These changes have been included in the Inclusionary Housing and Community Amenity Policy section below.

ANALYSIS

Official Community Plan Consultation

On August 21, 2024 notification of the proposed OCP Amendment was mailed to properties within a 200m radius of the subject properties and posted on the City's website, inviting affected persons, organizations, and authorities to ask questions of staff and provide written or verbal comments to Council for consideration. The notice was also sent to Harbour Air and Transport Canada. The comment period ended on September 20, 2024, and out of 1,057 mailed notification, 103 responses were received (9.7% response rate). Correspondence collected during this process is attached to this report for Council's consideration along with other correspondence received since this application was presented at Committee of the Whole.

Of the 103 responses received, eight (7.8%) indicated they are generally supportive of the proposal and 95 (92.2%) indicated opposition or concern. Harbour Air and Transport Canada did not respond during the consultation period.

The responses from those in favour of the application noted the following benefits:

- the provision of additional housing
- the provision of additional retail space
- the provision of a daycare.

The responses from those opposed to the application noted the following areas of concern:

- inconsistency with the broad objectives and goals of the OCP
- the scale of the proposed change to the OCP (i.e. increase from 6 to 14 storeys and increase from a base of 1.2:1 and a maximum of 2.0:1 to 2.88:1 FSR)
- would be more appropriate in the downtown
- the OCP 10-Year Review is currently underway and may result in a different vision for the site
- the lack of affordable or rental housing
- the possibility of this OCP amendment encouraging more applications that are similar to it in the neighbourhood.
- the height not being consistent with the context
- shadow impacts, including on Charles Redfern Green
- view impacts
- lack of transition between taller buildings to the north and lower buildings to the south
- a lack of fit with the character of the area
- demolition of the existing 1880s house at 224 Kingston Street
- a lack of infrastructure and services to support increased density in the area
- the lack of parking provided in the development in combination with the loss of the parking currently provided on the site
- increased traffic congestion in combination with traffic caused by tourism and public events in the area
- traffic safety concerns
- increased noise and pollution
- potential impacts on the development resulting from climate change such as tsunamis, earthquakes, and heat stress.

Some of these concerns relating to the proposed OCP amendment are aligned with the analysis that was included in the July 27, 2023 Committee of the Whole Report (attached). The proposal for a 14-storey mixed-use development, at 2.88:1 FSR, is inconsistent with the broad objectives and goals of the OCP. The Urban Place Designations are designed to support a growth management concept that distributes anticipated future growth to support the development of a strong downtown core and enhance the network of Urban Villages and Town Centres. The proposal does not meet this objective and the proposed building is not a suitable built form for this location. (see attached staff reports for background). Therefore, it is recommended that Council consider declining the application.

Inclusionary Housing and Community Amenity Policy

In accordance with the *Inclusionary Housing and Community Amenity Contribution Policy*, an economic analysis of the proposal was completed, which indicated that a contribution of \$2,300,000 is appropriate (see attached staff reports for more background). The policy indicates that 70% (\$1,610,000) of this should go towards the Local Amenities Fund to be used for Community Amenities, and the remaining 30% (\$690,000) should go towards the Housing Reserve Fund to be used for affordable housing. In lieu of this, the applicant is proposing to provide \$700,000 to the Housing Reserve Fund and \$200,000 to the Local Amenities Fund towards offsetting the negative impact of the development on housing affordability and the increased stress on community amenities associated with the proposed density.

	Proposed Contribution	Contribution determined by Policy
Housing Reserve Fund	\$700,000	\$690,000
Local Amenities Fund	\$200,000	\$1,610,000
TOTAL	\$900,000	\$2,300,000

Table 1. Inclusionary Housing and Community Amenity Contribution Policy (IHCAC)

Proposed Legal Agreements

In addition to this, the applicant is voluntarily proposing to provide the following to help offset the negative impacts of the development. These have been updated based on the Supplemental Letter from the applicant received on August 15, 2024 (attached and summarized above) and are generally supported by policies in the *Official Community Plan (2012)*, *Family Housing Policy (2024)*, *Sustainable Mobility Strategy (2019)*, and *Urban Forest Master Plan (2013)*. If Council moves the application forward, it is recommended that these, along with the proposed cash contributions, be secured through legal agreements to ensure that they are delivered (an alternate motion has been provided for this):

- **Housing Mix:** To help address the lack of housing suitable for families in the City of Victoria, the applicant is proposing to provide 11 three-bedroom townhomes and 15% of the remaining dwelling units as two- or three-bedroom units.
- **Daycare:** To help address the lack of childcare spaces in the City of Victoria, the applicant is proposing to provide a daycare of no less than 153.29m², for a minimum period of ten years. The space would be sold to a not-for-profit provider for no more than \$1 prior to occupancy permit. This has changed from the applicant’s previous proposal to provide a daycare of no less than 312.1m², with free rent dedicated to a non-profit for a period of ten years (valued at \$1,520,000 as part of the economic analysis).
- **Statutory Right-of-Way:** To improve visibility and enable for sufficient space for the anticipated increased pedestrians, cyclists, and vehicles at the intersection of Quebec Street and Montreal Street due to the proposed development, the applicant has offered a 6.0m x 6.0m statutory right-of-way at this intersection.
- **Transportation Demand Management:** To help mitigate potential impacts from the proposed parking variances, the applicant is proposing to provide two EV car-share vehicles, two car-share parking stalls with EV charging and 108 car-share memberships. The proposal also includes a bicycle maintenance facility, 11 spaces of cargo bike parking, and provision

of additional bike parking beyond the amount required by the *Zoning Regulation Bylaw* (161 long-term spaces proposed instead of the required 135 spaces and 25 short-term spaces proposed instead of the required 15 spaces).

- **Public Realm:** To help mitigate impacts from the proposed increase in density on the surrounding public realm, the applicant is proposing enhanced public realm and pedestrian network, protected cycling lanes, a cross walk, and undergrounding of BC Hydro lines.
- **Stormwater Infrastructure:** To help mitigate impacts from the proposed new buildings and underground parkade on stormwater run-off the applicant is proposing to construct stormwater facilities, boulevard rain gardens with irrigation, tree guards, and soil cells.

In addition to this, the applicant is proposing to provide commercial meeting space for 12 hours per week, with free rent dedicated to a non-profit organization for a minimum period of ten years. However, it is recommended that this not be secured through a legal agreement because it may be difficult to manage and enforce.

CONCLUSIONS

The OCP consultation has occurred in accordance with the Council motion of July 25, 2024. It is recommended that Council consider declining the application because it does not meet the broad objectives of the OCP and is not a suitable built form for this location. An alternate motion has been provided to direct staff to prepare the necessary bylaws if Council determines that the proposal sufficiently meets the previous Council direction and City policies.

ALTERNATE MOTION

Direct Staff to Move the Application Forward to a Public Hearing

OCP Amendment with Rezoning

1. That Council instruct the Director of Planning and 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 amendments that would authorize the proposed development outlined in the staff report dated November 8, 2024 for 205 Quebec Street, 507 Montreal Street, and 210, 214, 218, and 224 Kingston Street.
2. That first and second reading of the Official Community Plan and Zoning Regulation Bylaw amendments (collectively, the “**Bylaw Amendments**”) be considered by Council and a public hearing date be set.
3. That if Council wish to give the Bylaw Amendments approval in principle after the public hearing, Council consider the following motions prior to giving the Bylaw Amendments third reading:
 - “1. That Council give the Bylaw Amendments approval in principle, subject to the applicant preparing and executing the following prior to adoption of the Bylaw Amendments:

- a. With contents satisfactory to the Director of Planning and Development and form satisfactory to the City Solicitor, legal agreements to secure:
 - i. provision of \$700,000 to the Housing Reserve Fund
 - ii. provision of \$200,000 to the Local Amenities Fund
 - iii. provision of no less than 11 three-bedroom townhomes and 15% of the remaining dwelling units as two- or three-bedroom units
 - iv. provision of a daycare of no less than 153.29m², for a minimum period of ten years, and that the space will be sold to a not-for-profit provider for no more than \$1 prior to occupancy permit.
- b. With contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor, legal agreements to secure:
 - i. a triangle-shaped right of way at the corner of Montreal Street and Quebec Street that is 6m in length along each of the street frontages for highway purposes
 - ii. provision of transportation demand management measures including:
 - A. two shared vehicles
 - B. two shared vehicle parking stalls located on the property
 - C. public access to the shared vehicle parking stalls
 - D. 108 car share memberships
 - E. design and installation of an on-street dual head level two electric vehicle charger
 - F. 11 spaces of cargo bike parking
 - G. additional bike parking beyond the amount required by the Zoning Regulation Bylaw (161 long-term spaces proposed instead of the required 135 spaces and 25 short-term spaces proposed instead of the required 15 spaces)
 - H. a bike repair station.
 - iii. Provision of the following public realm improvements:
 - A. design, supply and installation of enhanced street frontages along Quebec Street, Montreal Street and Kingston Street frontages in the right of way in accordance with the plans date stamped November 8, 2024
 - B. design and installation of a AAA protected cycling network along Quebec Street and Montreal Street frontages in accordance with the plans date stamped November 8, 2024

- C. design and installation of a cross walk at Quebec Street and Montreal Street in accordance with the plans date stamped November 8, 2024
 - D. undergrounding the BC Hydro lines and associated infrastructure along Montreal Street.
 - iv. Provision of the following tree and stormwater infrastructure:
 - A. design and installation of the City’s stormwater facilities along the municipal frontage of Montreal Street
 - B. boulevard rain gardens with irrigation on the municipal frontage of Montreal Street and Quebec Street in accordance with the plans date stamped November 8, 2024
 - C. City of Victoria standard tree guards for all street trees in grates
 - D. soil cells to achieve recommended soil volumes for all new street trees.
- 2. That adoption of the Bylaw Amendments 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.”
- 4. 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.

Respectfully submitted,

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Development Services Division

Karen Hoese, Director
Planning and Development Department

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: Plans date stamped August 16, 2024 (deemed June 4, 2024)
- Attachment B: Supplemental letter from applicant dated August 15, 2024
- Attachment C: Letter from applicant to Mayor and Council dated November 6, 2024
- Attachment D: July 11, 2024 Committee of the Whole Report
- Attachment E: OCP Amendment Consultation Comments
- Attachment F: Correspondence (Letters received from residents).