



Mayor Helps and Council
City of Victoria
No.1 Centennial Square
Victoria, BC
V8W 1P6

November 30, 2017

Re: Zoning Bylaw 2017 – Unintended Consequences

Dear Mayor Helps and Council,

The current situation of over 70 unique zones across Downtown is both a nuisance and a blessing. A nuisance in that valuable staff and Council time is consumed by zoning amendments that involve minor changes in use. A blessing in that it supports a transparent system of land use governance and citizen participation through the CALUC process.

The DRA has expressed concerns regarding potential unintended consequences that may result if the Zoning Bylaw 2017 is passed as proposed. Our major concerns include:

- Up-zoning of some key properties by adding new permitted uses;
- Facilitating the assembly of large parcels;
- Reducing or eliminating Council's discretion on many development applications (including very large developments);
- Reducing or eliminating public consultation and participation in the development process;
- Reducing or eliminating transparency in the development process; and,
- Eliminating onsite parking requirement in Old Town for all development, regardless of size.

Overview

It is well understood by the DRA that the new bylaw does not intend to offer any additional density not already entitled to a particular property but it is our understanding that it will homogenize the allowable uses across the entire districts; adding many uses that were previously prohibited. The definition of "up-zoning" includes not only changes in density but changing the classification of a property from one with a lower use to that of a higher use.

The blanket zoning proposed (for Old Town in particular) would facilitate the amalgamation of lots with no limit apart from that of the constraints of the city block. Furthermore, we understand that there are no approvals required to amalgamate any number of city lots.

Combined, these two aspects have the potential to create some extremely large and impactful projects in the Old Town and the CBD. The situation is compounded by the fact that any projects proposed would only be governed by the Development Permit (DP) process and guided by their associated policies. We know that the DP process does not require public consultation and severely restricts, if not eliminates, Council's discretionary power to legally shape or decline an application. If variances do not form a part of the application, this process does not go for public comment and would entirely be governed by staff interpretation of policy through private negotiations with the developer. Staff maintains that policies exist to govern form and character for developments proposed under development permits, but recent applications heard at Council have exposed these policies to appear either weak themselves or weakly enforced.

Staff has advised us that details of negotiations with developers during the DP process are private and not available to be shared with the public. This opaque process does not inspire confidence as staff will be the de facto arbiter of policy interpretation. The impact of these interpretations appears enhanced with the new bylaw. This becomes even more worrisome as a "clean" development permit (one with no variances) no matter the size, does not go to public comment at Council (only to Committee of the Whole after an extremely short public notification period).

In order to maintain Council discretion and community consultation on applications that are extremely large, the DRA suggests a maximum building size be included if Council wishes to adopt the proposed bylaw. This would allow the originally promoted housekeeping aims of the new bylaw to proceed but would maintain Council discretion over what would be large and impactful applications. A maximum building size would not prohibit large developments but simply trigger a zoning amendment that would then allow for both public consultation and Council discretion. Existing large buildings need not be "down-zoned" but could simply be grandfathered through the "special regulations" that are currently proposed to protect existing entitlements.

Example in Old Town

The DRALUC has identified several specific properties that we expect could have a substantial impact on our community by reclassification under the Zoning Bylaw 2017. One specific example are the adjoining properties all owned by a single landowner that make up about half a city block at Fisgard, Store and Herald Streets. The current uses are parking lots and unprotected low-rise buildings. You can see on the attached map that half of the lot fronting Store Street is now zoned C-SS. The only allowable use of the C-SS zone is Service Station. Currently this property would need a full rezoning in order to be redeveloped either on its own or developed along with the several adjoining properties also owned by the same owner. Council has a great deal of discretion in handling such a potentially massive application (it would be the largest in Old Town for several decades) and the public has an opportunity to fully participate in the process through the CALUC system.

It is our understanding that once the new zoning bylaw is in place no rezoning will be then required and development of this huge site will proceed unfettered governed only

by the DP process. This is confirmed by the mapping provided by the City showing this property will be included within the proposed OTD-1 Zone. Development of this site under a DP, instead of the current requirement for rezoning, would leave Council, regardless of public sentiment, with little discretionary influence over the possible impacts resulting from the development of an extremely large 175,000 sq ft building within a National Historic Site.

Parking

The Draft Zoning Bylaw within the proposed Old Town Zone also *“proposes no off-street vehicular parking in recognition of site constraints and historic Old Town context”*. While the elimination of the vehicular Parking requirement is already recognised on many sites within Old Town through the CA-3C zone it is also appropriate for small projects that actually have site constraints or are heritage designated. There however appears no rationale to relieve large projects such as the one mentioned above from a requirement for parking. We already know that parking needs to be provided in buildings that wish to offer a wider range of unit sizes required by couples and families. The parking requirement should only be waived for buildings under a certain size incentivising applicants to conform with the Old Town design guideline requirements to promote buildings that are strongly contextual and respect the “small lot and fine-grained” character of Old Town.

Conclusion

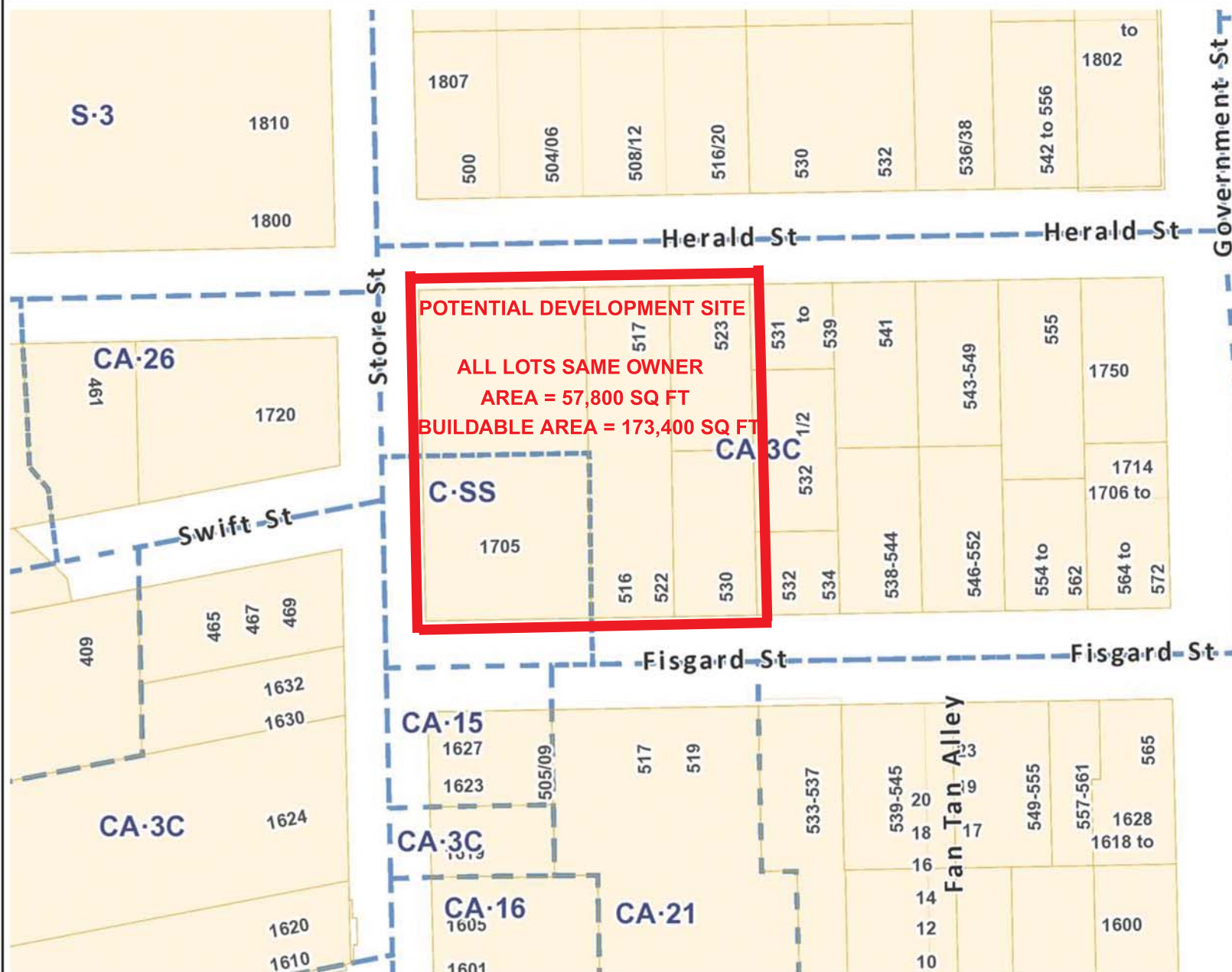
The proposed Zoning Bylaw 2017 will create homogenous “catch all” zones across Old Town and the CBD and convert much of the future land use governance to a “by right” system. The danger is that Council will reduce its own and the public’s participation in legislative action and cede much land use administration to an opaque staff-controlled process. The structure of the new bylaw should gain efficiencies in staff and Council time but not at the expense of maintaining transparency and citizen engagement and the discretionary power for Council to intervene as necessary. We believe that further discussions are necessary to improve the proposed bylaw and the associated policies that are to govern the process.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ian Sutherland', with a stylized, flowing script.

Ian Sutherland
Chair Land Use Committee
Downtown Residents Association

cc COV Planning



Legend

- Victoria Parcels
- Zoning Boundary

1: 1,280



Notes

65 0 33 65 Meters

NAD_1983_CSRS_UTM_Zone_10N

Public domain: can be freely printed, copied and distributed without permission.

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Distribution of Proposed Zones within Central Business District and Old Town Area

