1715 Government Street
Victoria, BC, V8W 1Z4

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

January 29, 2018

Re: Zoning Bylaw 2017

Dear Mayor Helps and Council,

We appreciate that Council "took a pause" at the Council Meeting on December 14th, 2017 to provide Staff the opportunity to correct the upzoning of ten properties discovered in the proposed Zoning Bylaw 2017.

Since Council made that decision, we have met with Director Tinney. At that meeting, Director Tinney confirmed that the ten properties identified by the DRA would be dealt with under the Special Regulations within the proposed Zoning Bylaw 2017. He also provided assurances that there are no other properties in the Old Town or Central Business Districts that would be granted additional entitlements or the corresponding significant increases in property values if the Zoning Bylaw 2017 were passed as amended. Director Tinney also confirmed that while Staff have made amendments to correct the "unintended" upzonings, they would not make any amendments to address other concerns brought forward by the DRA.

We would like to reiterate to Council that the draft of this bylaw was originally presented to the DRA essentially in its finished form and Staff have strongly resisted making any changes to that form throughout this process. This approach to public consultation violates the City's stated commitment to public engagement and participation. A review of the City of Victoria's "Engagement Framework" highlights that the City has adopted the IAP2 (International Association for Public Participation) spectrum with regards to public engagement. The document cites projects related to Neighbourhood Policies and Plans require a minimum level of engagement of "Involve". This level of engagement comes with a "promise" that: "We will work with you to *ensure that your concerns and aspirations are directly reflected in the alternatives developed* and provide feedback on how public input influenced the decision".

Instead of being able to rely on the public participation process to inform and influence decisions, the DRA has been forced to actively work **around** the official City process in order to deliver our concerns to Council. Most recently, in the Staff report to the Committee of the Whole dated January 19, 2018, DRA concerns regarding the "unintended" upzonings are misrepresented.

> "The DRA was concerned about the loss of opportunity for public comment on proposed land use and density changes in future if these properties received any increased development rights through the introduction of Zoning Bylaw 2017."

This is only one concern that the DRA raised in relation to a blanket rezoning of properties within two proposed districts (Old Town and Central Business). Other concerns include:

- Erosion of Council discretion on proposed developments due to lack of strong policy, especially very large developments facilitated by property amalgamation;
- Shifting from a transparent Rezoning process to an opaque Development Permit process;
- Moving to a DP process that is primarily managed in private between Staff and developers;
- Lack of specific and concrete Design Guidelines that are enforceable and less vulnerable to interpretation;
- Providing significant financial benefit to property owners without a corresponding benefit to the community; and,
- Eliminating opportunities to elicit public amenities within the scope of rezonings.

In fact, the DRA has outlined several concerns regarding the implications of many components of the proposed Zoning Bylaw 2017 that have been consistently disregarded and remain unaddressed to date. We have attached an overview of these concerns to this letter.

We do not suggest that this is an exhaustive list as our talented, experienced but busy group of volunteers has not reviewed the bylaw "with a fine tooth comb". It is our hope that in the absence of meaningful public engagement, Council will ask City Planners for clarification on the specific changes associated with this bylaw and a thorough account of the impacts those changes will bring. Once this information has been brought to light, we would feel more confident that Council has the information they require to make an informed decision and the community has the certainty we need to support that decision.

Sincerely,

Ian Sutherland
Chair Land Use Committee
Downtown Residents Association
cc COV Planning

Additional DRA concerns that have not been addressed include:

1. **<u>The exemption of the parking requirement for Old Town</u>**

The rationale provided for the proposed parking exemption for old town appears not to be backed up by the facts. Staff stated in their report to Council on December 7, 2017 that the parking exemption is ”intended to support heritage conservation and to recognize site constraints that often result in the need for parking variances”. In fact, heritage buildings are already exempt from parking requirements through the CA-3C Zone and small sites can more simply be exempted based on a maximum lot size rather than a wholesale exemption for all of Old Town. There are at least two upcoming development sites in Old Town that will be the largest developments since the Bay Centre in the 1980’s. Any kind of parking relaxation for developments is inappropriate.

The staff report goes on to state that extensive engagement through the “Off-street Parking Regulations Review” supports the proposal, despite the fact that the working papers for the Parking Review compiled by Boulevard (Watt) Consulting make no such mention or recommendation. The working papers recommended only slight reductions to the existing requirements for residential development based on unit size for the Downtown area as a whole. What did come out of the engagement process was a clear indication that larger units require a higher supply of parking.

Wholesale relief from the requirement to provide off street parking will also confer a significant financial benefit to developers of saving millions in development costs while providing no corresponding benefit to the community. Council should also consider this as a form of upzoning, as this is the type of benefit one might expect to be otherwise conferred under a rezoning under the full discretion of Council.

Recommendation: Exempt only designated heritage properties and properties under a certain size (say 15,000 sq ft) from the parking requirements. This will achieve the stated aims of the currently proposed exemption, as well as motivate building owners to designate heritage buildings, promote smaller buildings to be built that are more in keeping with the Old Town Design Guideline objectives, and insure that large developments provide adequate parking levels consistent with the findings of the Parking Review and Schedule C.

2. **<u>Reinforcement of the Opaque Structure of the Development Permit Process</u>**

With the adoption of the Zoning Bylaw 2017, there still remains the concern regarding the complete lack of public notification for Development Permits and minimal notification for Development Permits with Variances. Staff contend that the Local Government Act precludes Council and Staff from engaging and considering public input in their decision making-process for Development Permits. We strongly disagree with this contention (as does our legal advice) and maintain that the existence of Design Guideline policies within the Development Permit framework precludes Staff from excluding the public from examining the interpretation of the guidelines and justifies public input to both Staff and Council under timely circumstances.

Recommendation: Amend the Land Use Procedures Bylaw to add transparency by providing notice of any DP application to adjoining property owners (and CALUCs) at the beginning of the process and not at the end so the public can contact Staff with concerns and examine how Design Guidelines are being interpreted and applied and voice any concerns to Council to aid the decision making process.

3. **Exterior Egress Hallways Still Exempt From FSR**

The DRA has pointed out for many years that the loophole should be closed exempting egress hallways that are exterior to a building from the FSR calculation. Applicants exploiting the loophole that excludes exterior hallways from the FSR calculation can build larger buildings as a result. This will be the only opportunity to correct this loophole for the foreseeable future.

Interior hallways in multistory buildings are included within the buildings FSR and promote slender compact floor plates and maximum building energy conservation efficiency. The current loophole is exploited to gain maximum FSR resulting in significantly more bulky buildings pushed out to the minimum setbacks to make room for exterior hallways which in turn impact neighbouring buildings livability (Reference 1175 Pandora's effect on the Mondrian). The exterior hallway configuration also produces significant inefficiencies in energy conservation due to the huge increase in exterior wall surface area this loophole creates.

Recommendation: Include hallways needed for egress within the FSR calculation regardless of location within the building envelope. This will not prohibit exterior hallways but will remove the incentive to create bulky and energy inefficient buildings promoted by the existing loophole.

4. **Timing of the Old Town Design Guidelines Review**

While the DRA much appreciates Council's direction to Staff to strengthen the Old Town Design Guidelines, it is felt it should be done in conjunction with the Zoning Bylaw rather than after the fact. It is our concern that the Old Town Design Guideline Review will not continue to be a priority without its attachment to this Bylaw. Additionally, it is suggested that both the Old Town Guidelines and the Zoning Bylaw 2017 will be better, more comprehensive documents if they are developed in conjunction.

Recommendation: Undertake the amendment of the Old Town Design Guidelines in conjunction with further refinements to the Zoning Bylaw 2017.

5. **Incompatible Uses Continue to be Promoted Within Residential Buildings**

The DRA has repeatedly expressed concerns that allowing uses such as Bars and Pubs as well as brewpubs and distilleries (which are essentially industrial uses) within residential buildings are essentially incompatible uses and will be problematic without requirements for specific mitigation measures. These uses should be subject to special conditions and regulations if proposed in the same building as a residential use. There has been no substantive response from staff regarding possible regulation to mitigate this obvious and growing concern.