



Planning and Land Use Committee Report

For the Meeting of October 15, 2015

To: Planning and Land Use Committee **Date:** October 1, 2015

From: Jonathan Tinney, Director, Sustainable Planning and Community Development

Subject: **Rezoning Application No. 00473 for the Easterly 300 Block of Tyee Road and the Westerly 300 Block of Harbour Road (Undeveloped Lands at Dockside Green)**

RECOMMENDATION

Staff recommend that Committee forward this report to Council and that Council instruct staff to prepare the necessary Official Community Plan Amendment Bylaw in accordance with Section 882 of the *Local Government Act*, the necessary Zoning Regulation Bylaw Amendment, the necessary Land Use Procedures Bylaw Amendment and amendment to the Master Development Agreement that would authorize the proposed development outlined in Rezoning Application No. 00473 for the easterly 300 block of Tyee Road and the westerly 300 block of Harbour Road (Dockside Green), that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. That Council determine, pursuant to Section 879(1) of the *Local Government Act*, that the affected persons, organizations and authorities are those property owners and occupiers within a 200m radius of the subject property; determine that the appropriate consultation measures would include a mailed notice of the proposed OCP Amendment to the affected persons; posting of 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.
2. That Council determine, pursuant to Section 879 (2)(a) of the *Local Government Act*, that having regard to the previous Community Association Land Use Committee (CALUC) Community Meeting, the consultation proposed at this stage is an adequate opportunity for consultation.
3. That Council consider consultation under Section 879(2)(b) of the *Local Government Act* and determine that no referrals are necessary with the Capital Regional District Board, Councils of Oak Bay, Esquimalt and Saanich, the Songhees and Esquimalt First Nations, the School District Board, and the provincial and federal governments and their agencies due to the nature of the proposed amendment.
4. That Council give first reading to the Official Community Plan Amendment Bylaw.
5. That Council consider the Official Community Plan Amendment Bylaw in conjunction with the *City of Victoria 2012-2016 Financial Plan* and the *Capital Regional District Liquid Waste Management Plan* and *Capital Regional District Solid Waste Management Plan* pursuant to section 882(3)(a) of the *Local Government Act* and deem those Plans to be consistent with the proposed Official Community Plan Amendment Bylaw.

6. That Council give second reading to the Official Community Plan Amendment Bylaw.
7. That Council refer the Official Community Plan Amendment Bylaw for consideration at a Public Hearing.
8. That Council give first and second readings to the Land Use Procedures Bylaw Amendment.
9. That Council refer the Land Use Procedures Bylaw Amendment for consideration at a Public Hearing.
10. That the applicant provide the following information to support their proposed amendments to the Master Development Agreement (MDA):
 - a. LEED ND Platinum performance targets for each phase of development and a reporting out structure to ensure that performance targets are being met potentially including some form of guarantee. The reporting structure must establish key topics and indicators to be discussed and a set timeline for submitting these update reports to Council;
 - b. an alternative amenity to the Sustainability Centre that demonstrates similar environmental, community and educational value and that if the Developer is unable to find a satisfactory alternate solution, that the applicable cash-in-lieu payment be secured in order to provide other amenities that benefit the Dockside Lands and that are agreeable to Council and the Developer;
 - c. a satisfactory Phasing Plan, identifying which public amenities, on-site services, off-site services, vehicular driveways and access points would be provided with each phase of development;
 - d. a Subdivision Concept Plan, consistent with a Phasing Plan.
11. That Council direct staff to prepare an amended MDA detailing new requirements for:
 - a. the sale of individual development parcels;
 - b. new LEED ND requirements;
 - c. LEED NC 2009 Gold standards for new commercial buildings;
 - d. delivering the remaining amenities in conjunction with development phases;
 - e. providing a revised amenity package;
 - f. an amenity or contribution in lieu of the Sustainability Centre;
 - g. a process for receiving a monetary security to ensure the construction of the public amenities;
 - h. a Transportation Demand Management Strategy;
 - i. site remediation;
 - j. other amendments as deemed necessary by City staff.
12. That staff report back to Planning and Land Use Committee with a draft of the MDA amendments prior to a Public Hearing date being set.
13. That Council direct staff to review the proposed dedication of the amenity referred to as the "Mutt Strutt" in conjunction with the review of facilities located in Vic West Park and the potential resource impacts associated with the proposal and report back to Council with further information for consideration.
14. A Statutory Right of Way being registered on title, to the satisfaction of staff, to secure each of the following:
 - a. a bus bay on Esquimalt Road;
 - b. a bus bay on Tyee Road;
 - c. widening Esquimalt Road to improve westbound cycling safety.
15. Referral of the proposed revisions to the *Design Guidelines for the Dockside Area* to the Advisory Design Panel for a comprehensive review.
16. Referral of the proposed *Design Guidelines for Dockside Beta* to the Advisory Design Panel for a comprehensive review.
17. That Council authorize staff to proceed with a City-initiated Rezoning Application for all lands located within the CD-9 Zone, Dockside District, that are not subject to Rezoning

Application No. 00473 and that the applicant (Dockside Green Ltd.) be responsible for undertaking the necessary consultation with the Community Association Land Use Committee (CALUC).

LEGISLATIVE AUTHORITY

In accordance with Section 903 (c) of the *Local Government Act*, Council may regulate within a zone the use of land, buildings and other structures, the density of the use of the land, building and other structures, the siting, size and dimensions of buildings and other structures, as well as the uses that are permitted on the land and the location of uses on the land and within buildings and other structures.

In accordance with Section 876 of the *Local Government Act*, Council may adopt one or more Official Community Plans. Pursuant to Section 137(1)(b) of the *Community Charter*, the power to amend an Official Community Plan Bylaw is subject to the same approval and other requirements as the power to adopt a new Official Community Plan Bylaw.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Rezoning Application for the property located at the 300 blocks of Tyee Road and Harbour Road (undeveloped lands at Dockside Green). There are a number of components to this Application, including proposed amendments to:

- the *Zoning Regulation Bylaw*
- the *Official Community Plan* (Design Guidelines for the Dockside Area)
- the *Land Use Procedures Bylaw*
- the *Dockside Green Master Development Agreement*.

The following points were considered in assessing this Application:

- The proposal is generally consistent with the *Official Community Plan* (OCP) which identifies Dockside Green as an area where a mix and range of uses, including high-rise multi-unit residential, commercial and retail, are considered appropriate and where total floor space ratios may be contemplated up to approximately 2.5:1.
- The *Design Guidelines for the Dockside Area* include a number of mandatory design requirements based on a design concept originally established in 2005. The Application proposes a revised design concept for the site which necessitates amendments to the Design Guidelines. An amendment to the OCP is required to amend these Guidelines.
- The Application proposes a concept referred to as "Dockside BETA" which would be an area accommodating temporary buildings and interim uses until a permanent development proceeds. The applicant will be providing specific Design Guidelines for this concept. In addition, the applicant proposes that any future Development Permit Application relating to Dockside BETA be delegated to staff for review and potential approval if consistent with the guidelines. The delegation of such applications would necessitate an amendment to the City's *Land Use Procedures Bylaw*.
- The applicant proposes several revisions to the *Dockside Green Master Development Agreement* (MDA). In order to proceed with the requested amendments to the MDA, staff recommend that Council consider requesting additional information related to the proposed Subdivision Plan and the proposed Phasing of amenities, on-site services and off-site services.

- The Application only relates to the undeveloped portions of the Dockside Lands. However, the proposal affects all of the lands in the CD-9 Zone, Dockside District, and therefore, a City-initiated Rezoning Application is recommended for the already developed portions of the site in order to simplify administration of the regulations over the long term and to lend certainty to current and future residents and business operators.

BACKGROUND

Description of Proposal

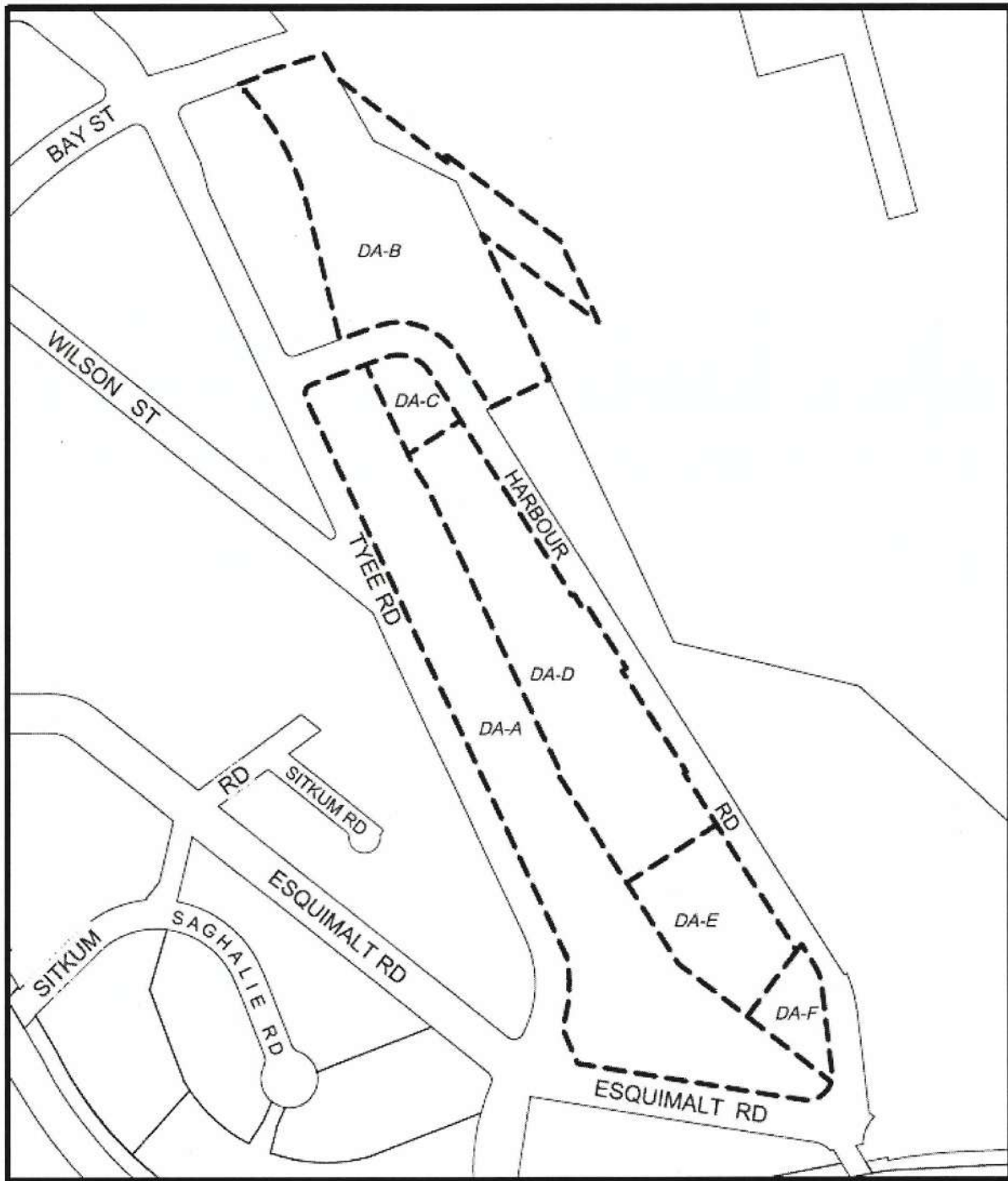
There are several issues being considered as part of the Rezoning Application and these are summarized below.

Proposed Amendments to the Zoning Regulation Bylaw

This Rezoning Application proposes amendments to the CD-9 Zone, Dockside District, which can be summarized as follows:

- additional uses proposed to be included in the zone:
 - child care
 - cultural facility (including museums, theatres and art galleries)
 - distillery, brewery and accessory liquor retail stores
 - seniors housing – assisted living
 - seniors housing – independent living
 - parks
 - public markets
 - festivals and associated structures
 - urban agriculture
- existing uses proposed to be removed from the zone:
 - biodiesel storage and sale
 - carpet cleaning
 - dye works
 - garages
- a technical amendment to the Zone relating to siting requirements for residential uses in Development Areas D and E (DA-D and DA-E)
- an increase in the maximum allowable residential floor area in DA-D and DA-E from 6,200m² to 9,867m² (but no change in the overall maximum floor area is proposed)
- additional building height is proposed in DA-A and DA-B
- parking requirements for proposed new uses and “Dockside BETA”.

A map identifying the location of the Development Areas is attached overleaf.



Dockside - Development Areas



Proposed Amendments to the *Official Community Plan*

The Application proposes the following amendments to the *Official Community Plan*:

- new Design Guidelines for the undeveloped Dockside lands
- new Design Guidelines for the “Dockside BETA” proposal
- exemption from Development Permit Application requirements for subdivision proposals in Development Permit Area 13: Core Songhees that are consistent with the Subdivision Concept Plan
- amendment to the Design Guidelines for the Dockside Area so that they no longer apply to the undeveloped lands, so there are not two sets of guidelines applying to the same properties.

Proposed Amendment to the *Land Use Procedures Bylaw*

The Application also proposes an amendment to the *Land Use Procedures Bylaw* that would delegate Development Permit approval authority to staff for temporary buildings and landscaping limited to “Dockside BETA” where the proposal is consistent with the new Design Guidelines and the *Zoning Regulation Bylaw*.

Proposed Amendments to the Dockside Green Master Development Agreement

The Application also proposes the following amendments to the Dockside Green MDA:

- eliminating the requirement for Council approval of the sale of individual development parcels
- replacing the requirement to construct all new buildings to LEED Canada-NC version 1.0 Platinum standard with LEED for Neighbourhood Platinum Standard
- eliminating the monetary penalty for not meeting the applicable LEED standard
- constructing all new commercial buildings to meet the LEED Canada NC 2009 – Gold standard (these buildings would not be formally certified).
- delivering the remaining amenities in conjunction with the construction of development phases, rather than a set time-frame
- providing a revised amenity package
- substituting a \$400,000 contribution to the new amenity package instead of building the Sustainability Centre
- replacing the Performance Guarantee with a different form of security such as a letter of credit
- revising the transportation demand management (TDM) strategy.

A table summarizing all of the proposed changes to the MDA is included in Appendix A.

City-Initiated Rezoning Application

The Application is for the undeveloped portions of the Dockside Lands, however, due to the structure of the existing Zoning Bylaw, the proposal affects additional lands that are not owned by the Applicant. A City-initiated Rezoning Application is recommended for the developed portions of the site. The intent of the application will be to confirm the as-built existing floor area

of each of the existing buildings and use entitlements within a revised CD-9 Zone, in order to provide clarity regarding the zoning entitlements associated with the built-out phases and to simplify administration of the Bylaw.

Sustainability Features

The existing MDA requires that the Developer deliver a number of sustainability features across the site, including but not limited to:

- all buildings (with specific exemptions) being built to LEED Canada - NC version 1.0 Platinum standard
- a financial contribution to a Sustainability Centre that models and promotes vibrant, healthy and green communities
- an on-site sewage treatment systems
- an on-site biomass gasification energy system
- various innovative renewable energy technologies and other environmental products being used throughout the site with emphasis on local and BC companies and providing information to bring public attention to their use.

The applicant proposes to substitute the aforementioned LEED standard to LEED Neighbourhood - Platinum. In addition, the applicant proposes to eliminate the obligation to contribute to the development of the Sustainability Centre. An amendment to the MDA would be required to facilitate these changes. Staff have provided further detail and analysis of these proposed amendments later in this report.

The on-site sewage treatment system and biomass gasification energy system have both been constructed and are available to serve future phases of Dockside Green.

Active Transportation Impacts

To support the fact that the CD-9 Zone, Dockside District provides for off-street parking requirements that are lower than the standard generally applicable under Schedule C of the City's *Zoning Regulation Bylaw*, the Developer agreed to provide a number of Transportation Demand Management (TDM) measures including:

- a car-share program
- working closely with BC Transit to address peak hour transit demand
- a mini-transit service to provide seniors and other residents with transportation to key drop-off points Downtown.
- bicycle racks to the LEED or City standard, whichever is greater
- working with key interest groups, like bicycle associations, to explore innovative approaches that the Developer can support or test on site.

The list above was secured in the MDA, however, the applicant has proposed revisions to this package. Staff have provided further detail and analysis of this amendment later in this report.

Public Realm Improvements

The existing MDA requires the Developer to provide a number of public realm improvements across the site, including but not limited to:

- a greenway through the site which incorporates pedestrian trails and green open space
- a large main plaza area in the southern portion of the site
- improvements to the Galloping Goose Trail
- a waterfront walkway and small boat launch
- shoreline enhancements
- play area
- public art
- interpretive signage
- public washroom.

The items noted above are either complete or the Developer still proposes to complete them, with the exception of the main plaza area, which the applicant proposes to replace with:

- Dockside Commons – a public green space at the south end of the greenway
- Dockside Landing – an entry plaza located adjacent to Harbour Road.

Land Use Context

The area is characterized by a mix of residential, commercial and industrial land uses.

Existing Site Development and Development Potential

The site is presently in the CD-9 Zone, Dockside District. Under the current CD-9 Zone, the property could be developed with residential, commercial and light industrial uses up to a maximum floor space ratio of 2.084:1. However, any development must also be consistent with the mandatory requirements outlined in the *Design Guidelines for the Dockside Area* and the obligations outlined in the Dockside MDA.

Data Table

The data table is provided in Appendix B and compares the proposal with the CD-9 Zone. An asterisk is used to identify where the proposal is less stringent than the existing Zone.

Relevant History

Sale Contract History

A discussion of the Sale Contract is important in order to understand the project's history and because portions of the Sale Contract are still in effect. Prior to the sale of the property by the City in 2005, a series of principles were established for redevelopment of the land by the Dockside Advisory Committee (made up of staff, community members, business community). The project deliverables were established generally as follows:

- Public Realm Requirements
 - two Focal Point Plazas
 - a minimum amount of Public Pathways
 - two parks/green space
 - planted boulevards
- Green Buildings
 - all buildings to be LEED Silver NC 1.0 Standard
- Building Height
 - a few "landmark" type buildings no higher than 10 storeys.

In September 2004, the City released a Request for Proposals (RFP) for the Dockside Lands. The RFP included various objectives relating to site remediation, land use, urban design, LEED certified buildings and public realm requirements. Dockside Green Ltd. was selected as the successful proponent based on their response to the RFP. The proposal evaluation was founded upon triple bottom line objectives of meeting economic, social and environmental goals.

In September 2005, Council approved the terms of the Dockside Green MDA, the Sale Contract (including Option to Purchase) and the Performance Guarantee. The report to Council provided a table describing the summary of negotiated changes from the RFP response (September, 2004) to the Sale Contract/Master Development Agreement and *Zoning Regulation Bylaw* (September, 2005). The total value of approximately \$23,800,000 associated with the development deal, was divided into three categories as outlined in the table below:

MDA Commitment	
Purchase Price of Land	\$ 8,500,000
Remediation	\$ 6,000,000
Amenities	\$ 9,378,490
Total	\$23,878,490

With regard to the amenities and purchase price, the Developer originally offered the City \$8,000,000 for the purchase of the lands with the construction of public amenities to be provided in step with each phase of the development. However, the City and Developer negotiated an arrangement whereby the Developer would provide the amenities according to a fixed schedule. In order to accommodate the City's request that amenities be provided within a specific timeframe, the Developer requested and the City agreed that payment for the purchase of the land would be made in instalments and the price of the land would be adjusted to \$8,500,000 to provide the same net present value to the City.

By agreeing to these terms, the City secured the provision of about 75% (\$6,993,580) of the public amenities within the first three years of construction (2007-2009). The reasoning for this change was to "provide community assurance that amenities would be provided as per the proposal and Developer [will have] a more marketable property". The balance of the public amenities (\$2,384,910) would have been provided in the following four years with completion in August 2013.

The Sale Contract divided the payment of the property purchase price into a series of instalments. The Developer has paid the City the full \$8,500,000 purchase price. The Sale Contract also provides the City with an "Option to Purchase" which is registered on the title of the property. The Option allows the City to purchase any undeveloped portion of the Optioned Property for fair market value in accordance with the following two provisions:

- a. if market conditions are positive for development; and
- b. if the progress of the development over a consecutive three-year period is less than 25,641m² (approximately 275,000 ft²).

The Guarantee is structured so that if the Developer were to default on its obligations to pay the purchase price, to remediate the site or to provide the amenities, Vancouver City Savings Credit Union (Vancity) would be held responsible for either performing the obligation or paying the City

the value of the obligation to the maximum amount set out in the Guarantee. In the case of the amenities under the current agreement, Vancity would be obliged to either provide the amenity as listed in Schedule D and as described in Schedule G or pay the City the monetary value of the amenity as set out in Schedule D. As mentioned earlier, a key aspect of the Sale Contract, Performance Guarantee and MDA was that the amenities, site remediation and sale price of the land would be delivered within a set period of time.

Master Development Agreement History

In September 2005, as part of the land sale and development proposal, the City entered into a Master Development Agreement ("MDA") with Dockside Green Ltd. (the "Developer"), as well as a Performance Guarantee with Vancouver City Savings Credit Union ("Vancity"), under which Vancity, as Guarantor, irrevocably agreed to guarantee certain obligations of the Developer.

As part of the MDA, the Developer agreed to provide a number of public amenities within specific time limits and to complete the remediation of the site. The amenity obligations are listed in Schedule D of the MDA (attached). Provision of those amenities was one of the obligations guaranteed under the Performance Guarantee. The Performance Guarantee is a legal agreement that acts as a financial backstop to ensure that the amenities are built. Under the terms of the Performance Guarantee, in the event of default by the Developer, the Guarantor could choose to either complete the public amenities or pay to the City a specific amount for each amenity as set out in Schedule D of the MDA.

In December 2009, Vancity assumed 100% ownership of Dockside Green Ltd. No new residential or commercial development has been constructed on the site since the completion of Phase II in April 2009. No new amenities have been constructed since Vancity assumed 100% ownership of Dockside Green Ltd. and the Developer has not completed its obligations to provide the amenities in accordance with the scheduled timeline agreed to in the MDA.

Due to the rising cost of construction since 2005, the amounts guaranteed for each amenity under the Performance Guarantee are significantly lower than the expected cost of actually constructing them. This gap is expected to continue to increase over time.

In October 2010, staff reported to Council on the delay in delivery of amenities and, subsequently, staff proposed a meeting with the Developer to negotiate amendments to Schedule D of the MDA to provide new timelines for construction of the remaining amenities.

As a result of negotiations, Vancity and the Developer agreed to increase the amount secured under the Guarantee to provide an escalation in value for the remaining site remediation, public amenity and sustainability centre obligations that would apply only from the date the obligation was required to be performed under the MDA. This amounts to a 5.5% increase in the value of the security for the remaining public amenities under the agreed to index. The MDA provides no mechanism to revisit these estimates.

Dockside Green now wishes to pursue modifications to both the *Zoning Regulation Bylaw* and the MDA in order to subdivide individual development parcels and offer those parcels for sale in the marketplace. This change in approach necessitates careful consideration of the proposed delivery of the amenities and green building standards because the City could be dealing with multiple development companies as the project is built-out.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, the applicant has consulted the Victoria West CALUC at a Community Meeting held on September 16, 2014. A letter dated February 17, 2015 is attached to this report.

ANALYSIS

Official Community Plan Consistency

The subject lands are identified in the OCP as being located within the Core Songhees Urban Place Designation. This designation envisions floor space ratios up to 2.5:1 and buildings up to 22 storeys in height in select locations. Land uses consistent with this designation include residential, commercial (office, retail, visitor accommodation), institutional and light industrial.

Official Community Plan Amendment

The Application proposes the following amendments to the *Official Community Plan*:

- new Design Guidelines for the undeveloped Dockside lands
- new Design Guidelines for the “Dockside Beta” proposal
- exemption from Development Permit Application requirements for subdivision proposals.

New Design Guidelines

The Application proposes new Design Guidelines for the undeveloped portions of Dockside Green and for the Dockside BETA proposal. The existing Design Guidelines would remain applicable to the developed portions of Dockside Green. Although it is anticipated that the new Design Guidelines will be a reflection of the new design concept illustrated in the attached plans, the applicant is still in the process of finalizing these documents. Once submitted, reviewed and deemed satisfactory by staff, staff recommend that Council consider referring these documents to the Advisory Design Panel for a comprehensive review.

Exemptions for Development Permit Applications for Subdivision

The applicant is requesting that future subdivisions be exempt from requiring Development Permits. This request has been facilitated with amendments to the OCP related to subdivision which were approved by Council on October 1, 2015. However, a Subdivision Concept Plan consistent with the Phasing Plan is required and must be incorporated into the Design Guidelines and secured as part of the amendments to the MDA. Any future subdivision applications must be consistent with that Plan in order to be exempt from the requirement for a Development Permit Application.

Official Community Plan Amendment Public Consultation

Should Council wish to advance this Application, Section 879(1) of the *Local Government Act* (LGA) requires a Council to provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected by an amendment to the OCP. Consistent with Section 879 (2)(a) of the LGA, Council must further consider whether consultation should be early and on-going. This statutory obligation is in addition to the Public Hearing requirements. In this instance, staff recommend for Council's

consideration that notifying owners and occupiers of land within 200m of the subject property, along with posting a notice on the City's website, would provide adequate opportunities for consultation with those affected.

Through the Community Association Land Use Committee (CALUC) Community Meeting process, all owners and occupiers within a 200m radius of the site were notified and invited to participate in a Community Meeting. The consultation proposed at this stage in the process is recommended as adequate and consultation with specific authorities, under Section 879(2)(a) of the LGA, is not recommended as necessary.

Should Council support the OCP Amendment, Council is required to consider consultation with; the Capital Regional District Board; Councils of Oak Bay; Esquimalt and Saanich; the Songhees and Esquimalt First Nations; the School District Board and the provincial government and its agencies. However, further consultation is not recommended as necessary for this amendment to the Design Guidelines. Council is also required to consider the OCP Amendments in relation to the City's *Financial Plan* and the *Capital Regional District Liquid Waste Management Plan* and the *Capital District Solid Waste Management Plan*. This proposed OCP Amendment would have no impact on any of these plans.

Proposed Amendments to Zoning Regulation Bylaw

Additional Permitted Uses

The Application proposes the following additional permitted uses in the CD-9 Zone, Dockside District:

Development Area	Proposed Additional Permitted Uses
A	Child Care Seniors Housing – Assisted Living Seniors Housing – Independent Living Parks Urban Agriculture
B	Child Care Seniors Housing – Assisted Living Seniors Housing – Independent Living
C	No additional uses proposed
D and E	Child Care Cultural Facility Distillery Brewery Accessory Liquor Store Seniors Housing – Assisted Living Seniors Housing – Independent Living Parks Public Markets Festivals Urban Agriculture
F	No additional uses proposed

In addition, the applicant also wishes to rescind the following permitted uses:

- biodiesel storage and sale
- carpet cleaning

- dye works
- garages.

The proposed additional permitted uses are generally consistent with the uses contemplated for the Core Songhees area, as defined in the OCP. Light industrial uses are contemplated in this location and, therefore, regulations would be included in the amended zone to limit the size of any manufacturing component associated with a Distillery or Brewery to ensure that they remain small scale in nature and compatible with the neighbourhood.

Technical Amendment – Siting Requirements for Residential Uses

Attached Dwellings and Multiple Dwellings are identified as a permitted use in DA-D and DA-E and defined as follows:

attached dwellings (only on the second floor and up, not within 18m of the Harbour Road and no part of any unit can face the Harbour Road unless there is a buffer of another building of equal or greater height between it and the easterly property line)

multiple dwellings (only on the second floor and up, not within 18m of the Harbour Road and no part of any unit can face the Harbour Road unless there is a buffer of another building of equal or greater height between it and the easterly property line)

As siting requirements are included in the description of the use, a Rezoning Application would be required if a future Developer wished to deviate from these requirements. The applicant proposes that the siting requirements instead be written as general regulations applicable to DA-D and DA-E respectively. If a future Developer ever sought to lessen these requirements, they would still be required to apply to the City for a variance from the *Zoning Regulation Bylaw*, but a more lengthy rezoning process would not be required.

Increase in Maximum Allowable Residential Floor Area

The Application proposes an increase in the maximum combined allowable residential floor area in DA-D and DA-E from 6,200m² to 9,867m². However, the overall maximum floor areas of 16,570m² in DA-D and 8,145m² in DA-E would not change. Therefore, this proposed amendment would simply allow greater flexibility in terms of the potential for providing residential floor space in the aforementioned Development Areas.

Additional Building Height

The CD-9 Zone, Dockside District, limits maximum building height as follows:

Development Area	Maximum Height (m) – using Canadian Geodetic Datum
A	45.13 (except that one building may have a maximum height of 66m and one other building may have a maximum height of 57.25m)
B	45.65
C	25.04
D	26.51
E	26.51
F	30.5

The Application seeks to amend the zone to allow each of the three buildings near the corner of Esquimalt Road and Tyee Road to have a maximum height of 66m. Similarly, it is envisaged that three additional buildings would be constructed along Tyee Road, immediately south of the completed residential phases to a maximum height of 60.5m.

The Application also proposed to increase the maximum allowable height in DA-B from 45.65m to 47m.

No changes to the maximum allowable building heights are proposed in DA-C, DA-D, DA-E or DA-F.

The applicant has noted that these increased heights are needed in order redistribute the existing density into economically viable building forms while maintaining the intent of the applicable design guidelines to terrace building heights from south to north. The applicant has provided a "Sun-Shade Study" (attached) to demonstrate the shadow impacts of the proposed 2015 Master Plan versus the existing Master Plan.

Proposed New Parking Rates

The applicant proposes that new parking rates be added to the CD-9 Zone with respect to the proposed new permitted uses and "Dockside BETA". The applicant secured the services of Boulevard Transportation to review anticipated parking demand at Dockside Green and they have submitted two Parking Studies (attached) relating to the proposed new permitted uses and "Dockside BETA" respectively. These studies propose that the following parking rates be included in the CD-9 Zone:

Proposed Use	Proposed Parking Ratio
Day Care	1 per 5 registered children
Cultural Facilities	1 per 40m ²
Public Markets	1 per 45m ²
Distilleries & Breweries	1 per 90m ²
Accessory Liquor Store	1 per 45m ²
Festivals and Associated Structures	1 per 4 person capacity
Urban Agriculture	1 per 20m ² of retail floor space
General Commercial Use	1 per 45m ²
Dockside BETA	1 per 20.9m ²

Staff have reviewed the aforementioned documentation and proposed parking rates and concur with the findings and recommend that Council consider supporting this amendment to the *Zoning Regulation Bylaw*.

Proposed Amendments to Master Development Agreement

The Developer has requested the following changes to the MDA:

- eliminating the requirement for Council approval of the sale of individual development parcels
- replacing the requirement to construct all new buildings to LEED Canada-NC version 1.0 Platinum standard with LEED for Neighbourhood Platinum Standard
- constructing all future commercial buildings to the LEED Canada NC 2009 – Gold standard.
- eliminating the monetary penalty for not meeting the applicable LEED standard

- delivering the remaining amenities in conjunction with the construction of development phases, rather than a set time-frame
- providing a revised amenity package
- substituting a \$400,000 contribution to the new amenity package instead of building the Sustainability Centre
- replacing the Performance Guarantee with a different form of security such as a letter of credit
- revising the transportation demand management (TDM) strategy.

The following sections will discuss each of these points in turn.

Future Sale of Development Parcels

Section 18 of the MDA states that the Developer may not sell or assign its controlling interest in the Agreement without the prior written approval of the City. The applicant's strategy is to subdivide the site and sell individual development parcels. As such, they have requested that the MDA be amended so they do not have to seek the approval of Council every time they wish to sell a parcel of land.

Staff recommend for Council's consideration that this request be accepted subject to the MDA being amended to include provisions to ensure that Dockside Green Ltd:

- is still ultimately responsible for providing public amenities, on-site services and off-site services until those amenities and services are complete and the development associated with that phase is constructed and occupied
- provide a security that covers 120% of the cost of constructing the amenity.

Applicable LEED Standard and Monetary Penalty

Section 11.0 of the MDA outlines the Developer's Leadership in Energy and Environment Design (LEED) commitments. The Developer is required to construct all buildings on the Dockside Lands to the LEED Canada-NC version 1.0 Platinum standard (referred to as the "applicable LEED standard"). This obligation does not apply to any portion of a building containing a restaurant and/or bar, townhouses or buildings for which the LEED certification process does not exist as of the date of the Agreement.

If the Developer fails to deliver a building to the Applicable LEED Standard, a monetary penalty is applicable. The penalty is based on a \$1 per buildable square foot charge for the remaining unrealized density. If the Developer failed to deliver all future buildings, this penalty would equate to approximately \$1,000,000. Furthermore, if the Developer sells a controlling interest in any portion of the development and the successor fails to meet the Applicable LEED Standard, the penalty doubles to \$2 per buildable square foot. The Developer proposes to eliminate this penalty and transition to obtain LEED ND Platinum certification.

Section 11.3 of the MDA states that, if a LEED for Neighbourhood (LEED ND) rating system is released with standards that are at least equivalent to, or more stringent than, the applicable LEED Standard, then with the approval of the City, the Developer may substitute the LEED ND for the current applicable LEED standard. The LEED ND standard has been formalized by the Canadian Green Building Council.

The applicant has requested that the applicable LEED standard be replaced with LEED ND Platinum Certification and has provided a letter (attached) from the President and CEO of the

Canada Green Building Council which states that the LEED NC and LEED ND rating systems “set equally demanding performance targets which become more stringent with the level of certification”. The correspondence indicates that Dockside Green still intends to target LEED Gold for all commercial buildings and new residential buildings would still have to meet minimum performance targets with prerequisite requirements in LEED ND.

In light of the aforementioned letter, staff recommend that Council consider approving this request subject to establishing a monitoring process and possibly a guarantee or penalty system if the Developer fails to successfully meet the proposed LEED standard.

Provision of Sustainability Centre

The Developer is bound by the MDA to provide a \$400,000 contribution toward establishing a Sustainability Centre on the site. Consistent with the Performance Guarantee, this figure will be recalculated if the City makes a demand under the Guarantee with respect to the payment of these monies. The recalculation is based on the Consumer Price Index for British Columbia and any uplift will be calculated from a base date of September 30, 2014. The MDA defines the “Sustainability Centre” as a facility of not less than 2000m² and not more than 4645m², that:

- a) is a centre for learning, innovation, collaboration, action and environmental social non-profit organizations and other enterprises;*
- b) models and promotes the creative design of vibrant, healthy and green communities;*
- c) is operated under a cooperative or non-profit structure or organization; and*
- d) includes a minimum of 30 m² of area that is available for community use without charge.*

The Developer has provided evidence to suggest that the Sustainability Centre as it is currently defined is not achievable (attached letter, dated May 19, 2015). The Developer has not provided any information as to whether or not they have considered the viability of establishing a Sustainability Centre in a scaled-down format, rather, the Developer proposes that the \$400,000 be directed toward a package of revised amenities. Under the terms of the existing MDA, if the Developer is in default of this amenity, the City can request that the \$400,000 be paid out to the City and held in an “Amenity Fund” to be used in the construction of an alternate amenity that benefits the Dockside Lands, as agreed by the City and the Developer.

The 2000m² allotted to the Sustainability Centre was to accommodate office or retail space. There is nothing in the MDA which would require the developer to subsidize lease rates for this space. As a result, the transfer of this space to accommodate general office or retail use would be of no net benefit to the developer.

In discussions with the Developer, staff have suggested that the theme of sustainability and environmental education was an important aspect to the triple bottom line accountability which the project was founded upon. The project’s high environmental standards and commitments to educating the public contributed heavily to the project’s high profile. To continue to advance this aspect of the project, staff have asked that the Developer to turn their minds to providing amenities or features that will carry forward the theme of sustainability and provide some educational value to the community. The Developer is currently considering this request.

Proposed Amenity Package

Section 8 of the MDA identifies the public amenities that the Developer agreed to provide in conjunction with the development of Dockside Green. The amenity package that is secured under the MDA was a key consideration as part of the land sale to Dockside Green Ltd. and

was originally valued at \$9,378,490. The Developer is now proposing a revised public amenity package and the key changes can be summarized as follows:

Amenities No Longer Proposed:

- Main Plaza (replaced by “Dockside Commons” and “Dockside Landing”)
- Mini-Transit
- Pedestrian link from Johnson Street Bridge (the Bridge design no longer accommodates).

New Amenities Proposed:

- “Dockside Commons” (Public Green Space)
- “Dockside Landing” (Entry Plaza)
- “Mutt Strutt” Dog Park.

Section 8.1 of the MDA states that the Developer is responsible for any cost overruns in the event that the Developer’s costs of constructing the Public Amenities exceeds \$9,378,490. Dockside Green Ltd. have retained the services of Altus Group Ltd. to estimate the cost of constructing the original amenities based on 2015 construction costs and have compared this to the cost of constructing the proposed revised amenity package. Their report concludes that:

- The cost of constructing the 2005 amenity package based on 2015 construction costs is \$17,415,884.38.
- The cost of constructing the proposed amenity package based on 2015 construction costs is \$19,421,722.57.

In light of the above, the dollar value of the proposed amenity package is \$2,005,838.19 greater than the value of the existing amenity package.

Phasing of Amenities

Under Section 8 of the MDA, the Developer agreed to provide the required public amenities within specific time limits. Those time limits anticipated that the majority of the amenities would be complete by December 2013, however, no public amenities have been delivered since early 2009. The Developer’s continued delay in constructing the remaining amenities, as contemplated in Schedule D of the MDA, represents a loss of public enjoyment for the local community.

In 2011, the MDA was amended to increase the liability of the Guarantor, Vancity, should the Developer default on their obligation to construct the amenities. As the delivery of amenities is tied to a fixed schedule, all of the remaining amenities are now subject to an escalation in value tied to the Consumer Price Index (CPI); escalation begins to apply as of the date the amenity was required to be completed. It should be noted that the amendment does not permit the reduction in the Guarantor’s liability should there be a reduction in the value of the index.

The Developer is willing to revisit the cost attributable to the amenities and have provided updated estimates for a revised MDA (see attached report from Altus Group Ltd.). The Developer further proposes that the MDA be amended so that the remaining amenities are linked to the phases of development. Each of the amenities would be secured via a cost estimate and security, such as a letter of credit, at 120% of the estimated value.

The applicant has not yet provided a satisfactory Phasing Plan indicating which amenities, on-site services and off-site services will be provided with each future phase of development. Staff recommend for Council's consideration that, subject to receiving a satisfactory Phasing Plan, Council consider accepting in principle the request to amend the MDA to link the delivery of amenities to phases of development.

Site Remediation

As part of the land sale, Dockside Green Ltd. agreed to undertake all necessary site remediation on the Dockside lands. The Guarantee provided by Vancity allocated \$6,000,000 specifically for this purpose. There is currently \$600,000 remaining in the Guarantee for site remediation.

The Developer remains responsible for completing all necessary site remediation, regardless of any cost overruns, subject to the provisions of the Sale Contract. On this basis, Dockside Green Ltd. has asked that the monies remaining in the Guarantee for site remediation be removed. Staff note that the City holds a Section 219 Covenant over the lands sold by the City to Dockside, under which the owner of the lands covenants to be solely responsible for their remediation in accordance with the requirements of the Sale Contract. Staff recommend for Council's consideration that the City accept the Developer's request on the basis that the Sale Contract and registered Section 219 Covenants continue to specify that Dockside Green Ltd. remain responsible for any required site remediation.

Revised Transportation Demand Management Strategy

In order to reduce the demand for parking generated by the development and to ensure the lower parking requirement established in the *Zoning Regulation Bylaw*, the MDA requires that the Developer implement a number of TDM Measures as specified in Schedule F of the MDA. These include:

- Car Share Program – includes the provision of 10 car share vehicles for the Development or, alternatively, car share co-op memberships to the value of \$240,000 for Dockside Green residents.
- BC Transit – the Developer agreed to work closely with BC Transit to address peak hours and encourage BC Transit to provide a smaller shuttle bus service for the development.
- Mini-Transit – the Developer agreed to establish a Dockside mini-transit service to provide seniors and other residents with transportation to key drop-off points Downtown.
- Bicycle Traffic and Storage – the Developer agreed to provide bicycle racks to the LEED or City standard, whichever is the greater.
- Education – a key to the Developer's TDM strategy is working with key interest groups, like bicycle associations, to explore innovative approaches that the Developer can support or test on site.

The Developer has proposed the following revisions to the TDM strategy:

- a mini-transit service is no longer proposed due to issues relating to long-term financial sustainability
- the applicant states that the Victoria Car Share Co-op (VSCS) have advised them that eight car share vehicles is an appropriate number to serve the development, therefore, two fewer car share vehicles are now proposed

- the applicant is looking to establish an annual grant (limited to 10 years) focused on promotional or educational events related to cycling, transit and pedestrian modes of traffic
- the TDM strategy now focuses on concentrating investments around “mobility hubs” within the development. The applicant states that they expect this approach will increase awareness of travel options and provide desirable alternatives to single-occupant vehicle travel.

The Developer has submitted a report by Boulevard Transportation which provides an analysis of the revised TDM strategy and concludes that the new strategy includes a reallocation of budget which is intended to meet the effectiveness of the previous TDM program as it produces a more viable and implementable approach to reducing vehicle parking demand on site.

Having reviewed the documentation submitted by the Developer, staff have made the following observations:

- The report states that, instead of the mini-transit service, BC Transit's handyDART Service is available for those individuals unable to access conventional public transit, which replicates the door-to-door convenience that the mini-transit service would have provided.
- Schedule F of the MDA anticipated that the mini-transit vehicle would be purchased by the Developer at a value of \$60,000. Section 8.21 states that, in the event that the Developer is in default of its obligation to provide any of the TDM strategies outlined in Schedule F, the City may require the Developer to transfer any attributable funds into the overall amenity fund; however, a number of alternative measures and the overall amenity package for the site has been increased in value, by approximately \$2,000,000.
- The Developer has provided evidence that MODO support the proposed reduction in the number of car share vehicles being provided (see attached letter).
- The applicant has agreed to provide bus bays on Esquimalt Road and Tyee Road and to the widening of Esquimalt Road to improve westbound cycling safety.

In light of the above, staff recommend that Council consider accepting the applicants' request to amend the TDM package, subject to Statutory Rights-of-Way being registered on title:

- to provide space for enhanced bus stops that incorporate the placement of bus shelters at both the Tyee Road and Esquimalt Road bus stops and
- on the north side of Esquimalt Road to improve conditions for cycling and walking on the westbound approach to Tyee Road.

Proposed Amendments to *Land Use Procedures Bylaw*

The Application also proposes an amendment to the *Land Use Procedures Bylaw* that would delegate staff Development Permit approval authority for new buildings and landscaping limited to “Dockside Beta” where the proposal is consistent with the new Design Guidelines and the *Zoning Regulation Bylaw*. The amendment should build in a mechanism, through delegation of authority to staff, to require Section 219 Covenants where necessary to ensure temporary buildings are removed from site after a specified period of time.

Given that the proposed development area is relatively small in the context of Dockside Green and that specific Design Guidelines would be established for Dockside BETA, staff recommend that Council consider supporting this amendment.

Resource Impacts

The applicant proposes a new amenity package associated with this application. The majority of the amenities will be managed and maintained by the Dockside Green Society. The only exception being the proposed "Mutt Strut" which the developer proposes to construct and transfer to the City as a City park. Staff recommend that Council consider directing staff to review the potential for a "Mutt Strut" in relation to consultation which will be undertaken in Victoria West regarding the facilities located in existing parks in the neighbourhood and the needs and wishes of the community. Staff further recommend that Council consider directing staff to determine the resource impacts associated with the ultimate proposal and design and report back to Council for further consideration.

CONCLUSIONS

The range of bylaw and regulatory amendments being requested through this application are broad and complex; however, the overall development and general site plan is, in many ways, similar to the current approved plan. The proposal being advanced by the applicant for Council's consideration at this time, does have some significant impacts on the previously negotiated amenity package and offers a different approach to their delivery. On balance, staff recommend for Council's consideration that the proposal has the potential to reinvigorate development of the site and that Council direct staff to undertake further work advancing the application and report back to Planning and Land Use Committee in accordance with the provisions set out in the Recommendation.

ALTERNATE MOTIONS

That Council decline Rezoning Application No. 00473 for the property located at 353 Tyee Road.

Respectfully submitted,



Jim Handy, Senior Planner
– Development Agreements,
Development Services
Division



Mike Wilson, Senior Planner
– Urban Design
Development Services
Division



Jonathan Tinney, Director
Sustainable Planning and
Community Development
Department

Report accepted and recommended by the City Manager:

Date: October 9, 2015

List of Attachments

- Appendix A: Proposed Amendments to Dockside Green MDA
- Appendix B: Zoning Data Table
- Zoning map
- Aerial map
- Applicants letter dated August 4, 2015
- Rezoning Submission July 16, 2015
- Applicants letter re: Sustainability Centre dated May 19, 2015
- Conceptual Plans dated July 16, 2015
- Sun-Shade Study dated July 16, 2015
- Parking Study dated June 18, 2015
- Dockside BETA Parking Study dated May 1, 2015
- TDM Study dated July 31, 2015
- Letter from MODO dated July 23, 2015
- Letter from CALUC dated February 17, 2015
- Letter from Canada Green Council dated August 4, 2015.

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
1.0	Definitions	Multiple Definitions	If the MDA is amended several definitions will have to be updated or deleted	
2.0	Purpose and Intent		None	
3.0	Condition Precedent		None	
4.0	Development Commitments	<p>Developer agrees to develop the lands in accordance with the Rezoning Bylaw and Design Guidelines</p> <p>Developer is fully responsible to ensure development of the Dockside Lands is in full compliance with all requirements of the bylaws, zoning and building construction and shall pay all applicable permit fees and DCC's</p>	None	
5.0	Development Phases, Subdivision and Development Permits	<p>Developer may subdivide the Dockside lands in accordance with the Schedule C site plan but is not bound by this plan.</p> <p>The Developer requires a DP for subdivision and the approval of the Approving Officer for any subdivision</p> <p>Prior to the issuance of any DP for development the Developer must submit an Integrated Pest</p>	Dockside have requested that they be exempt from requiring a Development Permit for Subdivision	Staff recommend that Council consider approving this request subject to the submission of a satisfactory subdivision plan and securing that subdivision plan in an amended MDA

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
		Management Plan for the Approval of the Director of Parks		
6.0	Land Use – Noise and Nuisance Mitigation Measures	<p>In order to mitigate the impact of noise and air pollution from adjacent industrial uses the lands shall be developed in compliance with the requirements of Schedule E</p> <p>The Developer must ensure that the Bylaws of any Strata Corporation comply with Section 2 of Schedule E (i.e. noise mitigation measures must not be removed)</p>	None	
7.0	Transportation Demand Management Strategies	<p>Off-street parking requirements reduced due to agreed TDM package (see Schedule F below)</p> <p>The Developer and the City will review the effectiveness of the TDM strategies every second year. The Developer shall be required to provide additional TDM measures and monies if the performance objectives set out in Schedule J and N are not being met.</p> <p>Outlines when the Developers obligations will be met.</p>	Applicant proposes revised TDM package (see Schedule F below).	Staff recommend that Council consider approving the revised TDM package.
8.0	Public Realm Requirements	Confirms that the Developer is responsible for constructing the amenities outlined in Schedule G (see below). The Developer is responsible for any cost overruns in the event that the cost of constructing	<p>New package of amenities proposed (see Schedule G below)</p> <p>Amenities will now be allocated to phases of development</p>	The cost of constructing the proposed amenity package is approx. \$2million greater than the cost of constructing the existing amenity package (based on 2015 construction costs)

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
		<p>the amenity exceeds the value identified in Schedule D</p> <p>Sets out terms for confirming completion of amenities</p> <p>Confirms that the amenities must be constructed in accordance with the time frame identified in Schedule D</p> <p>Confirms which amenities are to be constructed on the Dockside Lands</p> <p>Before commencing construction of any of the amenities the Developer must provide the Director of Engineering and the Director of Parks, engineered drawings and construction details to demonstrate that the amenities are in accordance with Schedule G</p> <p>The Developer and the City may agree to extend the time completion for a Public Amenity</p> <p>Temporary access must be provided if pedestrian access along the greenway is obstructed by construction works</p> <p>Sets out conditions to address any circumstance where the Developer is in default of its obligation to provide</p>	<p>A cost estimate and 120% security will be provided for each amenity as each Phase is developed</p>	<p>Dockside Green is still ultimately responsible for the delivery of public amenities</p> <p>New SRW's will be required to secure public access over public space and pedestrian linkages</p> <p>Staff recommend that Council consider approving the proposed approach to delivering amenities subject to submission of a satisfactory Phasing Plan</p>

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
		<p>an amenity</p> <p>Confirms which amenities require an SRW. The SRW must be registered in the Land Title Office before an Occupancy Permit is issued for any building constructed in the relevant development area.</p> <p>The Developer is responsible for the cost of registering all SRWs</p> <p>Sets out conditions relating to the “Harbour Access and Docks” – amenity complete</p> <p>Sets out conditions relating to the Point Ellice Park improvements</p> <p>Sets out conditions relating to the payment of funds to the City in lieu of or in default of the construction of an amenity</p> <p>Section 8.21 confirms that if the Developer is in default of its obligation to provide any of the TDM measures referred to in the agreement the City may elect that the Developer transfers the costs of those measures to the amenity fund</p>		
9.0	Affordable Housing	Provisions relating to the delivery of Non-Market Rental and Market Affordable Housing	Revisions to Sec. 9 of the MDA proposed in conjunction with Development Permit No. 478 for 370 and 384 Harbour Road	Not being considered as part of this Rezoning Application

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
10.0	Developer's Annual Report and Other Initiatives	<p>The Developer shall provide an Annual Report in compliance with Schedule J</p> <p>All housing constructed shall comply with the Adaptable Housing Guidelines</p> <p>Construction of Fire Hall (time period for the City to give notice of this requirement has expired)</p> <p>The City will carry out an annual audit of the Development in accordance with Schedule N</p>	<p>That the Annual Report be submitted on a 3 year basis so that it can provide a meaningful update on progress</p>	<p>Staff recommend that Council consider approving this proposed amendment.</p>
11.0	LEED Commitments	<p>Confirms that the Developer will construct all buildings on the Dockside Lands to LEED Canada-NC Platinum standard</p> <p>On the Princess Mary Lands the standard shall be LEED Canada-NC Silver</p> <p>If the applicable LEED standard is amended or replaced by a LEED standard that is at least equivalent to, or more stringent than the applicable LEED standard then, subject to City approval, the Developer may substitute the standards</p> <p>The above applies if the Developer wishes to substitute the applicable LEED standard with LEEDND.</p>	<p>The Developer wishes to substitute the applicable LEED standard with the LEEDND standard</p> <p>The Developer wishes to remove the financial penalty for failing to deliver the applicable LEED Standard</p>	<p>Staff recommend that Council consider approving substituting the applicable LEED standard subject to a financial penalty clause remaining in effect</p>

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
		<p>Confirms that the Developer will pay a penalty where they fail to achieve the applicable LEED Standard</p> <p>The LEED obligations transfer to any purchaser or successor in title. This should be secured under the provisions of a Restrictive Covenant.</p> <p>Sets out conditions for compliance with LEED requirements (i.e. timeline for providing proof of compliance)</p> <p>LEED requirements do not apply to: A portion of a building containing a bar or restaurant; Townhouses; Buildings existing at the time of the Agreement.</p> <p>The Developer must ensure that all future owners understand, support and maintain all established LEED features and installations. The Developer will provide future owners with relevant information to this affect.</p>		
12.0	On-Site Utilities	Confirms that the Developer will be constructing and providing on-site sewage treatment systems and an on-site waste wood co-generation	None	

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
		<p>facility in accordance with Schedule K.</p> <p>This section contains conditions relating to the construction and installation of the aforementioned facilities</p>		
13.0	Operation and Maintenance of Amenities and Utilities	Prior to the issuance of the first Occupancy Permit, a regime was required for the maintenance and operation of the amenities and utilities on the Dockside Lands	None	
14.0	Off-Site Services and Statutory Right of Way	<p>Confirms which off-site services the City will construct and maintain. The Developer is responsible for providing any relevant working drawings.</p> <p>The Developer agrees to grant the listed SRW's over the Dockside Lands in a form acceptable to the Director of Engineering and Public Works. The City will grant the Developer certain privileges (i.e. connection to storm water drainage system) for compliance</p> <p>The Developer is responsible for the costs of preparing and registering the SRW and easements listed in this section</p>	None	Additional SRW's are required for bus bays (Tyee Road and Esquimalt Road) and the widening of Esquimalt Road
15.0	Traffic Issues	The City are responsible for installing specific traffic signals and median improvements	None	

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
16.0	Communication with the Public and Council	<p>The Developer will provide signage throughout the site to apprise the public of any development</p> <p>The Developer recognize the City's contribution to the Sustainability Centre</p> <p>The Developer will work with the community to establish a Community Liaison Group to be based in the Sustainability Centre</p>	The Developer is no longer proposing the Sustainability Centre	Staff recommend that Council consider directing staff to negotiate the provision of an alternative amenity to the Sustainability Centre that demonstrates similar environmental, community and educational value and that if the Developer is unwilling or unable to find an alternate solution, that the applicable cash-in-lieu payment be secured in order to find other amenities of Council's choosing
17.0	Restrictive Covenant	Required a Restrictive Covenant in association with the MDA	None	The Covenant may need to be revised to reflect the terms of any amended agreement.
18.0	Assignment	Confirms that the Developer may not sell or assign its controlling interests in this Agreement without the prior written approval from the City	None	Given the Developers approach to future Development this should be reviewed.
19.0	Dispute Resolution	Sets out potential remedies for dispute resolution	None	
20.0	Force Majeure	Acknowledges circumstances that are out of both parties control	None	
21.0	Release	<p>With the exception of Section 17.2, the agreement will cease to burden or encumber a building once an Occupancy Permit has been issued and the Developer shall be entitled to sell all or any part of such buildings.</p> <p>The City is responsible for executing and delivering to the Developer a</p>	None	Given the Developers approach to future Development this should be reviewed.

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
		registrable discharge in respect of the above. Prior to the issuance of an Occupancy Permit the Developer shall confirm if it is selling all buildings or strata lots on a bulk basis or not.		
22.0	Termination and Extension	In the event that the Sale Contract is terminated		
23.0	General Provisions	Outlines General Conditions		
Schedule A	Rezoning Bylaw	Existing Rezoning Bylaw	Zoning Bylaw Amendment	Schedule must be amended to reflect any approved Zoning Bylaw Amendment
Schedule B	Design	Existing Design Guidelines	Amendment to Design Guidelines	Schedule must be amended to reflect any revised Design Guidelines
Schedule C	Site Plan	Conceptual Master Plan	New Master Plan	Schedule must be amended to reflect any revisions to the current Master Plan
Schedule D	Development /Amenity Schedule	Lists outstanding amenities, schedule for completion of amenities and plan showing location of amenities	Revised list of amenities Delivery of amenities linked to phasing New site plan	This Schedule must be replaced if Council approve the revised amenity package
Schedule E	Noise & Nuisance Mitigation Measures	Identifies required noise level standards Identifies potential noise mitigation measures	None	
Schedule F	Transportation Demand	Lists TDM strategies (see below)	New TDM package proposed	This Schedule must be replaced if Council approve the revised

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
	Management Strategies			TDM package
F.1	Car-Share Program	The Developer will provide a minimum of 10 car share vehicles, alternatively, the Developer will buy car share co-op memberships to the value of \$240,000 for Dockside Green residents	Now proposing 8 car share vehicles	See comments relating to revised TDM package MODO have confirmed that 8 car share vehicles is sufficient to meet the demand at Dockside Green
F.2	BC Transit	The Developer will work with BC Transit to provide a bus service for the development addressing peak hours	BC Transit have indicated that #14 route will include Tyee Road from 2016 onward stopping every 3 minutes in peak time.	This provision can be removed once the #14 re-route and timetable is confirmed and operational
F.3	Mini-Transit	Provide mini-transit for seniors at a value of \$60,000	No longer proposed	A TDM report provided by the applicant states that, instead of the mini-transit service, BC Transit's handyDART service is available for those individuals unable to access conventional public transit, which replicates the door-to-door convenience that the mini-transit service would have provided Section 8.21 states that, in the event that the Developer is in default of its obligation to provide any of the TDM strategies, the City may require the Developer to transfer any attributable funds into the overall amenity fund. As outlined in the staff report, the applicant has provided evidence suggesting that

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
				the proposed amenity package is already valued at approx. \$2,000,000 greater than the existing package
F.4	Bicycle Traffic and Storage	Bicycle racks to be provided to LEED or City standards, whichever is the greater. Includes end of trip facilities	None	
F.5	Education	The Developer will work with interest groups to explore innovative approaches to TDM The Dockside Green website shall highlight opportunities for sustainable forms of transportation	The Dockside submission identifies additional strategies such as an annual grant for sustainable modes of transportation.	This would be added to the proposed revised TDM package if approved by Council
Schedule G	Amenities			
G.1	Access across Harbour Road	\$20,720.00 remaining in Guarantee	Deemed Complete	Applicant proposes to reinvest in revised amenity package
G.2	Staircase on south east end of site from Johnson Street Bridge	0% complete \$33,000.00 remaining in Guarantee	Revised bridge design no longer accommodates this staircase	Applicant proposes to reinvest in revised amenity package
G.3	Improvements to Esquimalt Road	Complete	None	
G.4	North South Greenway	82% complete \$315,194.40 remaining in Guarantee	None	
G.5	Vista Park Pathway and Triangle Park Pathway	Triangle Park pathway complete Vista Park pathway 0% complete \$156,000.00 remaining in Guarantee	None	
G.6	Large Plaza/	0% complete	Revised Plaza Space	Dockside Commons (green

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
	Community Amphitheatre/ Stage in Lot 1 and Esquimalt/ Tyee/ Harbour Connections	\$1,194,500.00 remaining in Guarantee		public space) and Dockside Landing (public plaza) are now proposed as an alternative to the original plaza design
G.7	Pedestrian Access on Lot 4	Complete		
G.8	Internal Road/ Pedestrian Areas for Industrial Areas along Harbour Road	33% complete \$899,079.70 remaining in Guarantee	None	
G.9	Pervious paving/ walkways in Parking Areas	All parking areas will include natural swales and vegetated areas. Installation to align with buildings.	None	
G.10	Extensive Tree Planting	Complete		
G.11	Improvement to the Galloping Goose Trail	70% complete \$85,500.00 remaining in Guarantee	None	
G.12	Waterfront walkway (dock) and small boat launch	Complete		
G.13	Shoreline Enhancement and Restoration	Complete		
G.14	Play Area	0% complete \$25,000.00 remaining in Guarantee	None	
G.15	Public Art	60% complete \$75,000.00 remaining in Guarantee	None	
G.16	Historical, First Nations and	50% complete \$20,000.00 remaining in Guarantee	None	

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

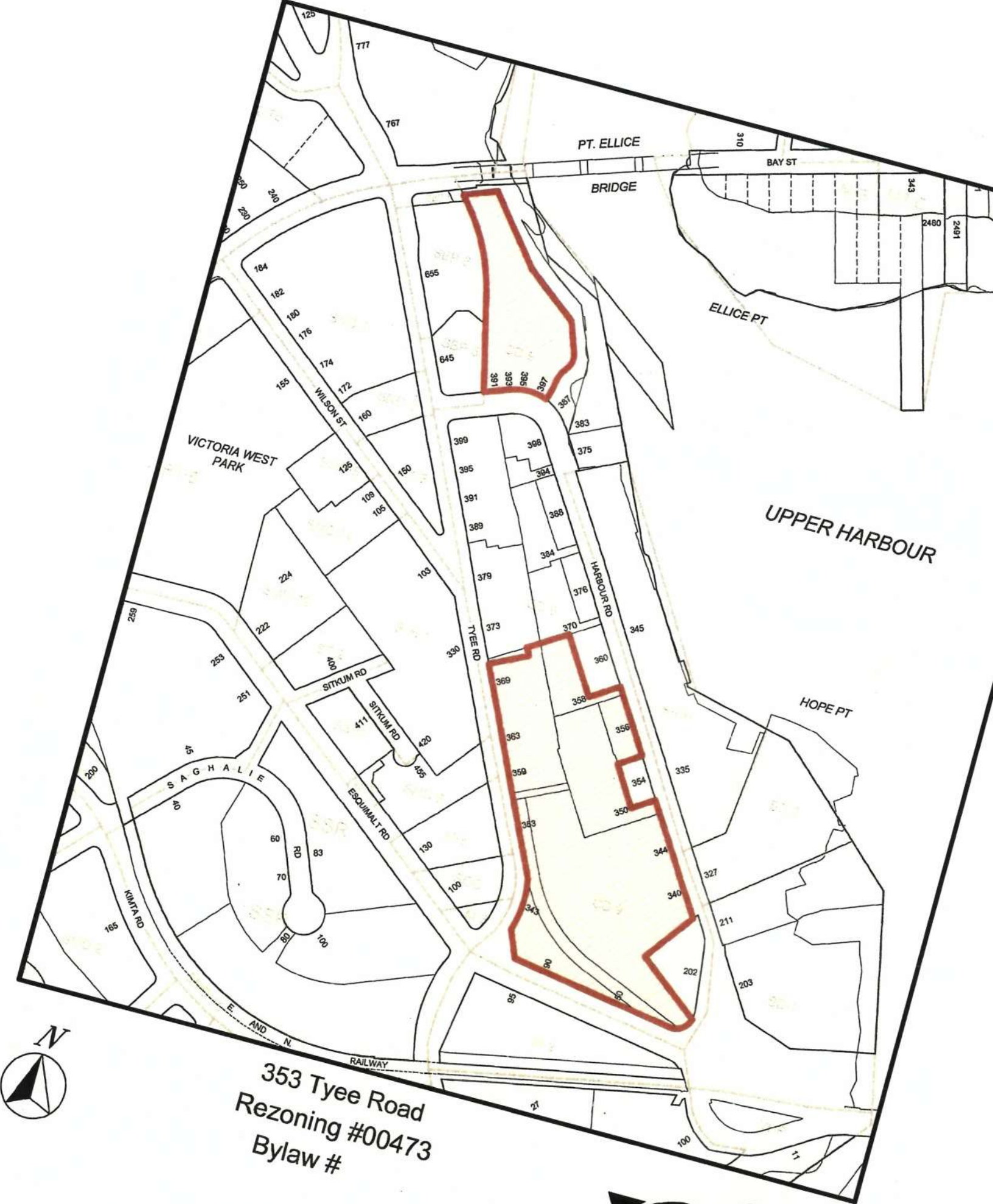
Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
	Environmental Signage			
G.17	Highlighting Environmental Technologies	55% complete \$90,000.00 remaining in Guarantee	No longer proposed	Applicant proposes to reinvest in revised amenity package
G.18	Sustainability Center	0% complete \$400,000.00 remaining in Guarantee	No longer proposed	See Sec. 16 above
G.19	Public Washroom	0% complete \$25,000.00 remaining in Guarantee	None	
	Site Remediation	90% complete \$600,000.00 remaining in Guarantee	Remove reference the \$600,000 for Site Remediation	Staff recommend that Council accept the Developer's request on the basis that the Sale Contract and registered Section 219 Covenants continue to specify that Dockside Green Ltd. remain responsible for any required site remediation
Schedule H	Statutory Right of Way	SRW template	None	
Schedule I	License Agreement	License Agreement template	None	
Schedule J	Developer's Annual Report Content	Sets out the Developer's Annual Reporting requirements	None	The applicable LEED checklist may need to be revised if Council approve a change to the applicable LEED standard
Schedule K	Utilities (Biomass & Waste Water Treatment Plant)	Confirms details of the on-site utilities	None	
Schedule L	Restrictive Covenant	Restrictive Covenant template	None	
Schedule M	Parameters for Integrated Pest Management	Integrated Pest Management Policy	None	

APPENDIX A – PROPOSED AMENDMENTS TO DOCKSIDE GREEN MDA

Section Number	Topic	Summary of Current Provisions	Proposed Changes to Provisions	Comments
	Plan			
Schedule N	City Audit Criteria	City Audit Criteria	None	
Schedule O	Adaptable Housing Policy	Adaptable Housing Policy	None	

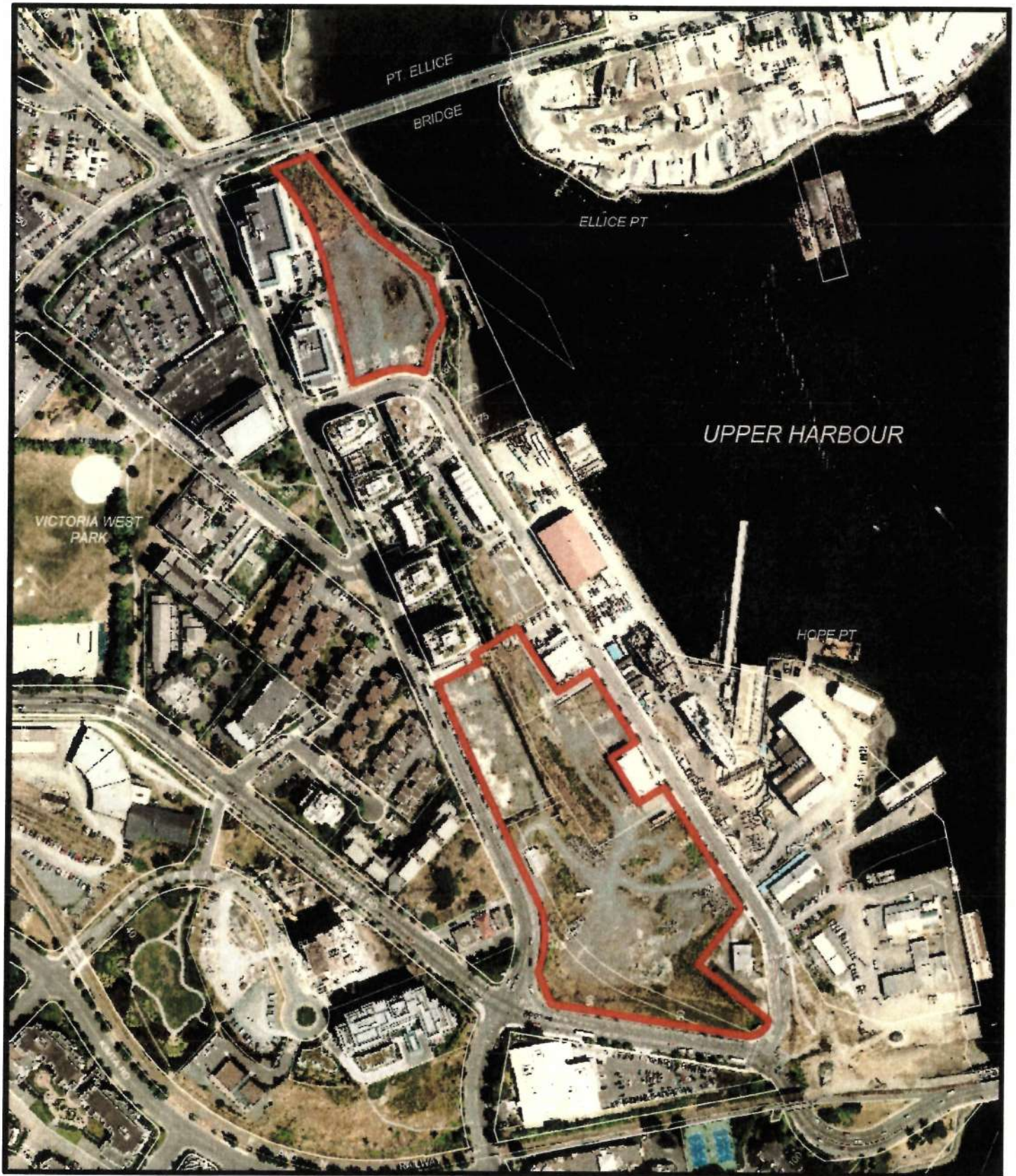
ZONING PLAN CHECK (Summary)

Project									
Address							Application number		Plan checker
353 Tyee (Dockside Green)							REZ00473		Duane Blewett (250) 361-0359
Legal description								Plans dated	
Refer to supplied titles within the application								January 16, 2015	
Current use			Zoning				DP Area / Heritage		* Difference between proposal and compared zone
Vacant			CD-9				DPA13		
Proposed use			Proposed zone				Proposed scope of work		
Mixed use: Multiple dwelling, Office, Retail			Site Specific				Rezoning Application to permit additional uses in all Development Areas and to increase permitted floor area in Development Area D and Development Area E.		
Zoning Criteria	Proposal	Proposal (DA-A)	Proposal (DA-B)	Proposal (DA-C)	Proposal (DA-D)	Proposal (DA-E)	Proposal (DA-F)	Zone Comparison (CD-9)	Comment
Proposed site area (m ²) (min.)	41506.00							n/a	
Total site area (m ²) (min.)	60756.00							n/a	
Park/greenspace (m ²)	>10100.00							1037.65 (2.5% of the site area)	
Number of Buildings/towers (towers with a shared lower floor or parking floor have not been calculated as one)	30 (2015 proposal) 29 (2005 proposal)							n/a	
Floor space ratio (ratio) (max.)	3.22:1							n/a	
Existing floor area (m ²) (max.)	36598.00								
Proposed floor area (m ²) (max.)	133678.00	92089.00	15592.00	1809.00	12477.00	7345.00	4336.00	DA-A: 85855.00 DA-C: 1645.00	
Residential	116611.00	91762.00	14982.00	nil	6832.00	3035.00	nil	6200.00 (DA-D and E)	9867.00 (DA-D and E)
Retail	6326.00	327.00	610.00	605.00	474.00	4310.00	nil	7100.00	
Office	5587.00	nil	nil	1204.00	4383.00	nil	nil	11800.00	
Other	5154.00	nil	nil	nil	788.00	nil	4366.00		
Highest building height (geodetic m) (max.)	66.00 (R6-2 & R8-3 Dockside Commons)	66.00	47.00	exist.	26.51	26.51	30.05 (not built, DP approval)	One building within DA-A at 66.00	
Number of storeys (max.)		20	14		4	7		n/a	
Setback from Tyee Road (m)		5.00	n/a	n/a	n/a	n/a	n/a	3.00	
Setback from Esquimalt Road (m)		5.00	n/a	n/a	n/a	n/a	n/a	1.00	
Setback from Harbour Road (m)		n/a	n/a	n/a	18.00	18.00	n/a	18.00	
Residential buffer		n/a	n/a	n/a	Partial	Nil	n/a	Required	
Ground floor residential use		n/a	n/a	n/a	Yes	Yes		Not permitted	



353 Tye Road
Rezoning #00473
Bylaw #





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