



December 1, 2017

Mayor and Council
City of Victoria
1 Centennial Square
Victoria BC V8W 1P6

Re: Zoning Bylaw Review

Mayor and Council –

UDI Capital Region has met and engaged with staff numerous times over the past year regarding the zoning bylaw review. We would like to thank staff for their open dialogue and willingness to share information. We are aware of the amount of work that has gone into drafting this bylaw and would like to see this come to fruition – not only for the sake of staff but for the development industry as well.

UDI believes that staff have executed a thoughtful, thorough review process; and they have taken a convoluted bylaw and simplified the regulations. This shows progressive forethought and a willingness to embrace the bustling market that Victoria is experiencing. Within this draft bylaw there is more flexibility and added uses and definitions. The changes to the bylaw will enhance the vibrancy of the downtown core, generate tourism, create jobs and help fill vacant retail space.

Staff have invested many hours of work and meetings to engage the industry. Many UDI members are awaiting final approval of this revised bylaw. Some developers are with-holding further advancements of projects due to the uncertainty of the timing for the revised bylaw changes to take place. To hold this bylaw up, with further discussion, will only create more uncertainty in the development industry and prolong the permit process for some developers.

Staff and council should be commended for recognizing that the City of Victoria is evolving – is a small city coming into its own. With this evolution comes opportunity, growth and vibrancy. UDI looks forward to our continued collaboration.

Kind Regards,

A handwritten signature in black ink, appearing to read "Kathy Hogan".

Kathy Hogan
(on behalf of the UDI Capital Region Board of Directors)



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

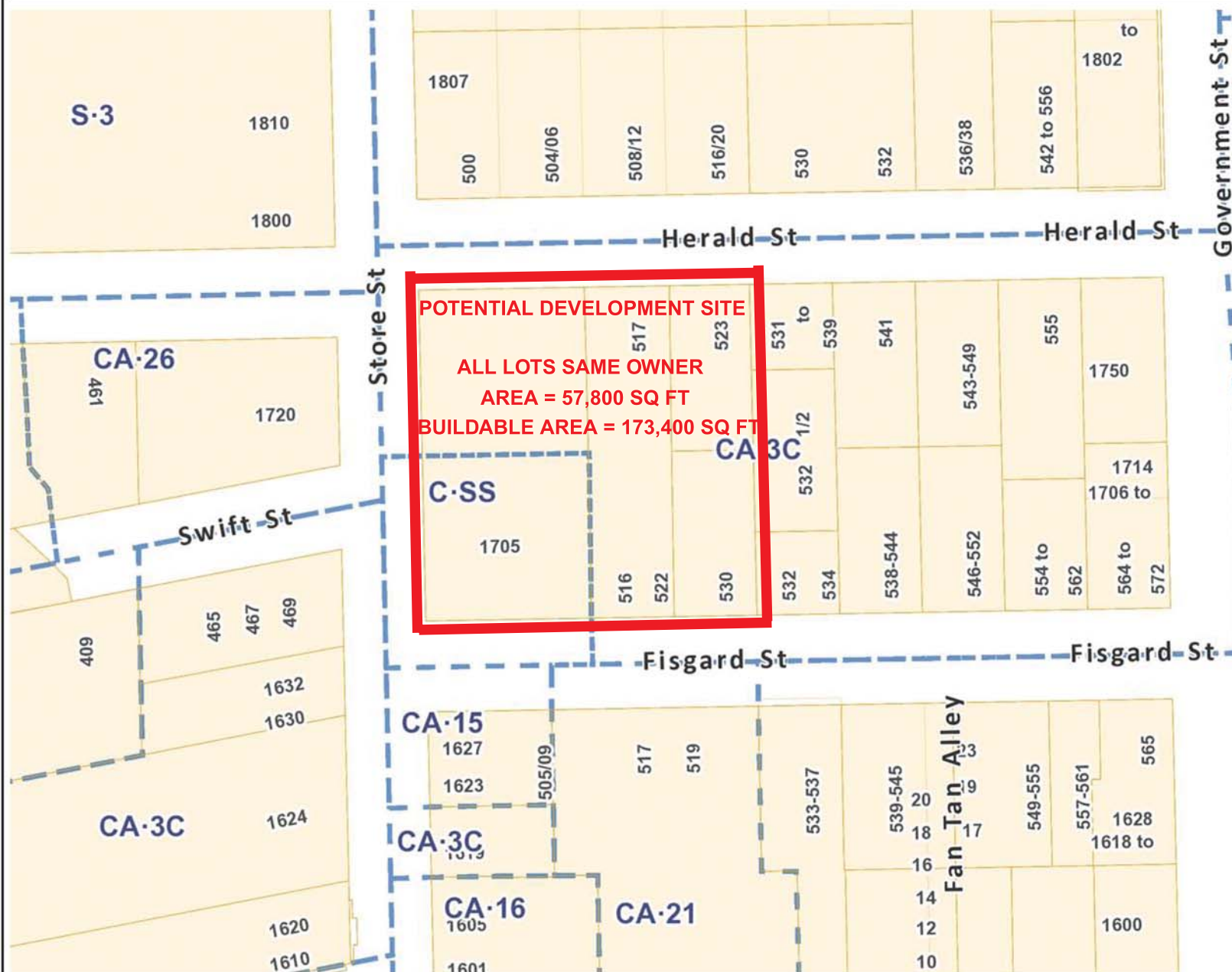
The proposed Zoning Bylaw 2017 will create homogenous “catch all” zones across Old Town and the CBD and convert much of the future land use governance to a “by right” system. The danger is that Council will reduce its own and the public’s participation in legislative action and cede much land use administration 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

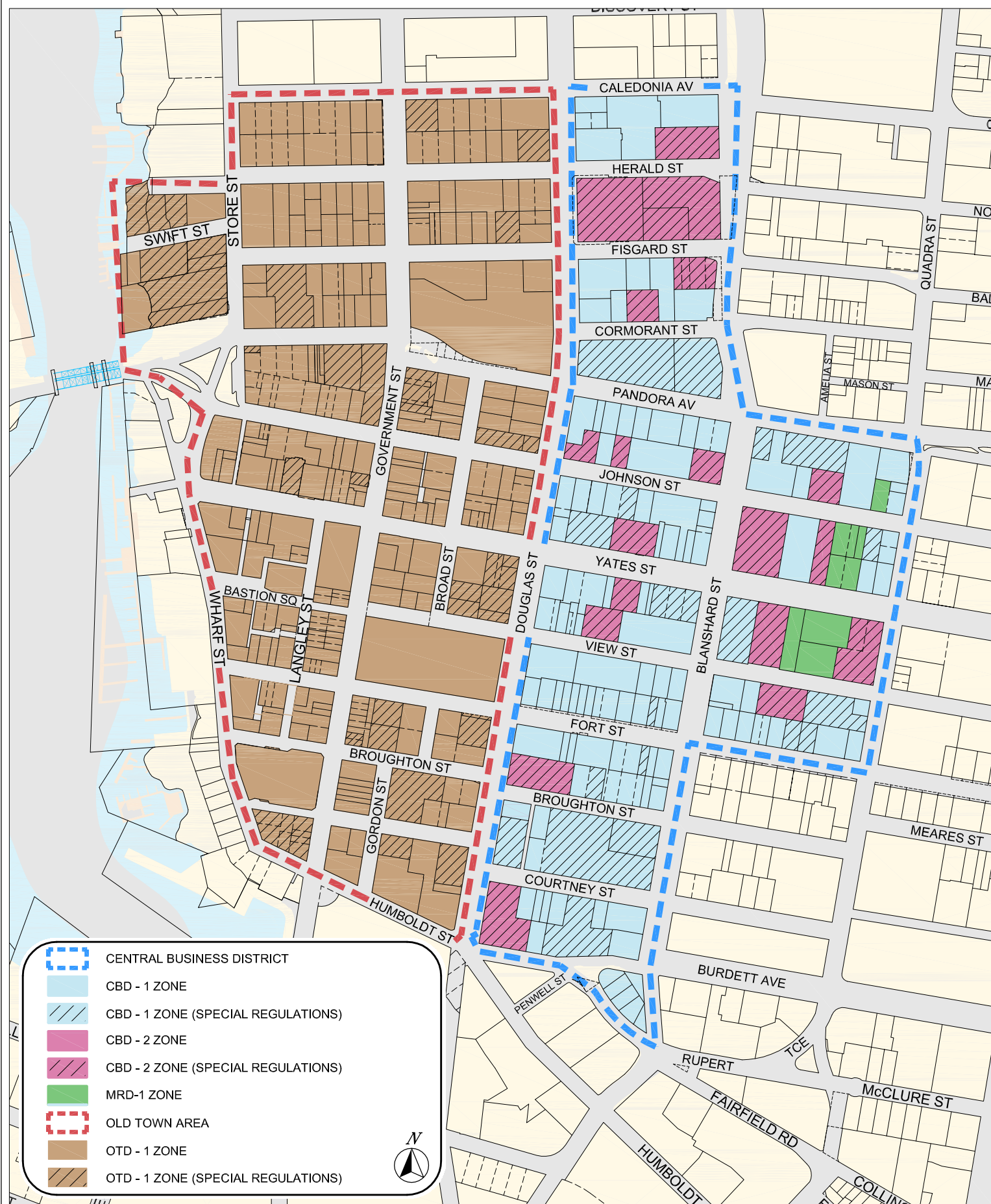
NAD_1983_CSRS_UTM_Zone_10N

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





December 5, 2017

Mayor and Council
City of Victoria

Re: Zoning Bylaw 2017

Dear Mayor and Council,

In the proposed Zoning Bylaw 2017, we are seeing a shift in the City's redevelopment approval process. This makes the neighbourhood planning process even more important – the OCP (which includes DP guidelines) and the neighbourhood plans have to be kept current in this approach.

This new process lacks transparency, removes neighborhood engagement and oversight, and paves the way for unintended consequences. Discussion of this proposal and its ramifications has been inadequate; it requires a reset, moving on to a full and comprehensive discussion with your civic partners.

The new bylaw would leave the role of CALUC in question. The process of checks and balances would be unclear and possibly open to departmental override.

If there is greater dependency on the OCP to provide overarching development vision, there must also be a clearly outlined process to have Local Area Plans updated in a timely fashion, perhaps every 5 years.

Sincerely,

Janet Simpson, President



James Bay Neighbourhood Association

jbna@vcn.bc.ca
Victoria, B.C., Canada

www.jbna.org

December 6th, 2017

Mayor Helps and Council,
City of Victoria

Re: Zoning Bylaw 2017

Earlier this week, JBNA received a CoV notice regarding Zoning Bylaw 2017. This zoning proposal is another step, which, if implemented, would further reduce transparency of land use governance and citizen participation through the well respected CALUC process.

The JBNA Board requests that Council table Zoning Bylaw 2017 while directing staff to carry out a public consultation process via the established land use consultative process, the CALUC system.

The JBNA Board has been aware of both the diminishing of opportunity for citizen consultation and the transfer, or reduction, or elimination, of Council's discretion in the development process. Among the several documents forwarded to you over the past several years regarding the impact of this shift on the James Bay neighbourhood, two documents, are attached (dated April 22nd, 2015 and October 28th, 2015).

We have recently been informed by staff that:

- the City intends to carry Bylaw 2017 beyond downtown into the James Bay neighbourhood, and
- the City may treat the Ogden Point area outside the local Area Plan for James Bay.

A paragraph in the Downtown Residents Association submission posted on the Committee of the Whole December 7, 2017, agenda, provides a succinct summary of the situation:

"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." *DRALUC letter dated November 30, 2017*

We ask Council to respect the citizenry of our neighbourhood, their needs, and their vision for James Bay.

Respectfully submitted,

President, JBNA

Cc: Chairs, CoV CALUC



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October 28th, 2015

Mayor Helps and Council,
City of Victoria

Re: Development Permit Exemptions and Delegation Authority

The JBNA Board is opposed to the proposed delegation of authority and exemptions for development permits as detailed in the planning document dated August 27th, presented to PLUC on September 10th.

This response must be considered in context, considering the following:

- October 3rd, 2013, GVHA-JBNA MOU (Fisherman's Wharf)
- April 22nd, 2015, JBNA response to Development/Heritage Alteration Permit Applications & Subdivisions
- September 9th, 2015, submission by Richard Linzey, Chair, CoV Heritage Advisory Panel
- October 1st, 2015, CoV Council - CALUC round-table discussion
- September 25th, 2015, (PLUC Report) Development Summit Action Plan & Final Report presented to PLUC on October 15th.

In effect, the proposal(s) would deny residents of James Bay the opportunity to review developments on most commercial/industrial lands in James Bay, including the contentious on-going and future development of Ogden Point.

The proposal(s) support the CoV's Strategic Plan objectives, outcomes and actions related to empowering staff, delegating decision-making and streamlining residential and commercial development processes but are in direct conflict with the Strategic Plan's objectives related to engaging and empowering the community. Consultation and collaboration on land use matters is the single most important aspect of community engagement. Centralizing and delegating authority as proposed is the direct opposite of "meaningful engagement."

The proposal(s) also undermines the JBNA-GVHA Memorandum of Understanding created by our two organizations and submitted to the City to accompany the rezoning application for Fisherman's Wharf in 2013.

The GVHA-JBNA Memorandum of Understanding was predicated on the opportunity for continuing public review. It was to create a consultation process for further commercial development at Fisherman's Wharf. 'Smaller' DP applications, expected during the first few years, were to give GVHA and JBNA an opportunity to fine-tune our internal processes to deal with these proposals in an efficient and effective way and hopefully pave the way for consideration of the Ogden Point MasterPlan DP process, yet to be determined.

... 2

The Fisherman's Wharf MOU has been breached on several occasions; with a couple of breaches involving development permit applications. JBNA's first notification of one particular DP application was through a PLUC agenda. Upon contacting GVHA about the breach, we learned that GVHA's senior management was not aware of the DP application being forwarded to PLUC (Note: the city had processed the application with only the signature of an employee, not of the executive team). These weren't major projects but the fact that the City also didn't realize that the MOU would have been breached, remains worrisome. Although GVHA was not purposely trying to breach the MOU with the structures, it was a matter of neither the City nor GVHA having internal processes in place that respect the JBNA-GVHA Fisherman's Wharf MOU.

This issue with the Fisherman's Wharf MOU speaks to the importance of elements of the current system. The City process including a PLUC agenda is the community's only back-up for information and often the first public disclosure of a development. We are not suggesting that the existing system should remain as is; however, the proposed system sidelines public review, engagement and collaboration.

A development on a waterlot, of or near 100m² (1000 sq.ft.) is not minor. City staff may not be aware of the very different impacts of water-based businesses versus land-based businesses. On water, 1000 sq.ft. could house a restaurant, a pub, or a manufacturing facility. The design and orientation of a development on water could have significant impacts on nearby residents and other businesses. Public input could alter the orientation of a pub-deck, thereby minimizing impacts; it could alter the location of a facility *vis a vis* other facilities and thereby reduce or negate impacts.

Although the proposed changes purport to *"being advanced in response to some of the outcomes from the previous Development Summits and the City of Victoria Strategic Plan (2015-2018) as they relate to improving development processes and reducing the overall volume of development applications"*, the development summits, and any public reviews known to us, have not suggested any exemptions to review for a development on waterlots, yet they are being proposed in the August 27th document.

Speed of approval may be an issue but as the analysis from planning suggests, the greatest time savings for developments would come through efficiencies within the process at City Hall. The CALUC process, and neighbourhood review, was not identified as problematic with respect to time-lapse issues.

On October 1st, at the Council-CALUC round table, the need, and desirability of CALUC to have opportunity and voice was expressed by many. Indeed, one neighbourhood representative expressed the need for all variances and other matters to be referred to CALUC. Words from Richard Linzey's September 9th submission, referring to proposed exemptions and delegations

which were to address **minor** legal technicalities, would apply equally to non-heritage-related developments: *“it is not clear how such exemptions and delegations avoid unintended consequences ...”*.

Such consequences go beyond the loss of public input, they also impose higher workloads on the volunteers who facilitate the CALUC as they search for other means of disclosures and input, increase the credibility gap between “City Hall” and residents, and most of all, signify the rejection of advice/input from committee and CALUC members.

The delegated authority and exemption proposal, in one form or another, has been in front of Council for at least 10 months. As it has come onto various agendas, some input has been sought from neighbourhoods, committees, landlords, and the development community. Sadly, as input has been received over the past year, be it through submissions or at the CALUC round-table discussions, proposals from staff have not changed direction, and have not incorporated input. Instead, we have seen policy proposals which have incrementally reduced CALUC or neighbourhood voices.

Two weeks following the October 1st round table discussions, the September Development Summit Action Plan & Final Report was presented to PLUC. It was as though the October round-table didn’t occur. The system of neighbourhood consultation AFTER staff have developed program or changes puts neighbourhoods in a position of objecting, rather than as partners in the development of our city. Seeking “input” after recommendations are made, does not support collaboration. What it does, is to create a lot of work, duplication, angst and distrust.

The “decline” of opportunity to voice opinion as suggested by Linzey is not confined to heritage reviews; the diminishment of opportunity has been a theme for several months, in spite of the “strengthening communities” narrative.

We ask that delegations and exemptions, as per the August 27th proposal, be tabled pending creation of a process that permits public review and input for any development permit application, be it considered minor or major by staff. It is the residents who know which developments may be minor or major, and who will be living next to and near developments. JBNA has created a collaborative, time-sensitive and mutually respectful process for working with developers and with City staff. Perhaps the pre-meeting “model” may serve as a starting point for developing a DP review process that is compatible with Strategic Plan objectives.

Respectfully submitted,



President, JBNA

Cc: Chairs, CoV CALUC/VCAN



James Bay Neighbourhood Association

234 Menzies St
Victoria, B.C.
V8V 2G7

www.jbna.org

April 22nd, 2015

Mayor and Council
City of Victoria

Dear Mayor and Councilors,

Re: CALUC: Development/Heritage Alteration Permit Applications & Subdivisions

Although this letter was triggered by the March 20th, 2015 communication from Community Planning inviting comment on proposed changes to the OCP to exempt most subdivision applications from requiring a development permit, this submission goes further and addresses community consultation gaps with regard to both Development and Heritage Alteration Permit Applications and to subdivisions.

Council will be aware that James Bay is associated with several new developments, permits, and variance applications each year. We are well aware of the work and tracking required for these applications. At the same time, we realize that for **a neighbour to a property for which there is an application for DPA/HAP/Variance, the impact of such a proposal may have more of an impact on the neighbour than a rezoning proposal.**

Subdivisions could be very important and have significant impacts on our community. As you see from the James Bay section of Map 32 (attached), a large part of James Bay falls within Development Permit Areas. Furthermore, much of this Development Permit Area is currently under review and/or development. Harbour properties, the RBCMuseum and Crystal Court properties, and the Menzies corridor are development permit areas.

With regards to Capital Park, we fully expect subdivision applications coming forward in the years ahead. Through discussions with the developers, we expect DP and subdivision applications to be reviewed at open JBNA meetings prior to City Public Hearings. However, we realize that other developers may not be as respectful of the need for public consultation as the Concert/Jawl consortium.

With regular scheduled meetings and the JBNA Development Review Committee (DRC) process, JBNA has proven to be an efficient facilitator of public consultation meetings. This predictability of process has been appreciated by developers as the "unknown" is more difficult to work with than the known.

JBNA communications, regarding recent rezonings and variance applications, including the 520 Niagara rezoning, have identified the gap that exists with review of these applications. The gap being that sending a letter to CALUC does not constitute a public community consultation process. (See attached excerpts of City statements.)

In 2012, JBNA received a letter referring to a variance application for a development at 408 Dallas (DVP 00110). Members of the JBNA Board reviewed the situation with a visit to the property and became aware of resident concerns. JBNA Board sent a letter of response, dated April 15th, to Council requesting that the variance proposal come forward to the community. No response was received, no community meeting occurred.

We ask Council to DIRECT staff to create a *procedural requirement* to provide neighborhood associations with the right to hold a full CALUC public process for any Variance, Development Permit, Heritage Alteration, and subdivision application process, upon request. This would be in keeping with Council's public commitment to consultation. Given the many DPA/HAP/Variations associated with James Bay, there have only been two over the past 5 years for which the JBNA Board would have requested the CALUC process.

The Public Hearing is properly where decisions are made, not where solutions are found and consultation occurs. The open neighbourhood association public meeting is the place for developers and neighbours to have open discussions to determine sensitivities and explore solutions.

Sincerely,



Marg Gardiner
President, JBNA

Cc: Marc Cittone, Planning
JBNA Board

JBNA ~ honouring our history, building our future

Attach:
Segment of **MAP 32**

Composite Map of
Development Permit Areas
and Heritage Conservation
Areas

