

## REQUEST FOR DECISION

**DATE:** May 1, 2019

Report No. DEV-19-039

**TO:** Laurie Hurst, Chief Administrative Officer

**FROM:** Alex Tang, Planner and Bill Brown, Director of Development Services

**SUBJECT:**

Rezoning Application - 638 Constance Avenue, 640 Constance Avenue and 637 Nelson Street

### RECOMMENDATION:

1. That Council resolves that Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2927, attached to Staff Report DEV-19-039 as Appendix A, which would amend Zoning Bylaw, 1992, No. 2050 by changing the zoning designation of 638 Constance Avenue [PID 000-546-437, Lot B (DD 237133I), of Lots 79 and 89, Suburban Lot 44, Esquimalt District, Plan 2854], 640 Constance Avenue [PID 000-380-911, Amended Lot 88 (DD 208422I), of Suburban Lot 44, Esquimalt District, Plan 2854], and 637 Nelson Street [PID 006-386-466, Lot D (DD 367731-I), Suburban Lot 44, Esquimalt District, Plan 2854], all shown cross hatched on Schedule 'A' of Bylaw No. 2927, from RM-1 [Multiple Family Residential] to CD No. 110 [Comprehensive Development District No. 110] be given third reading; and
2. That, as the applicant wishes to assure Council that uses and development will be restricted and amenities provided as identified in Staff Report DEV-19-039, the applicant has voluntarily agreed to register a Section 219 Covenant on the title of 638 Constance Avenue [PID 000-546-437, Lot B (DD 237133I), of Lots 79 and 89, Suburban Lot 44, Esquimalt District, Plan 2854], 640 Constance Avenue [PID 000-380-911, Amended Lot 88 (DD 208422I), of Suburban Lot 44, Esquimalt District, Plan 2854], and 637 Nelson Street [PID 006-386-466, Lot D (DD 367731-I), Suburban Lot 44, Esquimalt District, Plan 2854] in favour of the Township of Esquimalt providing the lands shall not be subdivided, built upon or used (as appropriate to the requirement, as drafted by the Township's solicitor at the applicant's expense) in the absence of all of the following:
  - Lot consolidation of 638 Constance Avenue [PID 000-546-437, Lot B (DD 237133I), of Lots 79 and 89, Suburban Lot 44, Esquimalt District, Plan 2854], 640 Constance Avenue [PID 000-380-911, Amended Lot 88 (DD 208422I), of Suburban Lot 44, Esquimalt District, Plan 2854], and 637 Nelson Street [PID 006-386-466, Lot D (DD 367731-I), Suburban Lot 44, Esquimalt District, Plan 2854] prior to development as the proposed CD No.110 Zone does not work unless the parcels are consolidated
  - The building be constructed to include six 3-bedroom dwelling units
  - Seven visitor parking spaces will be provided and remain as illustrated in the parking plan, attached as Appendix C to Staff Report DEV-19-039

- \$500 per unit car shares from Modo car share services
- Provision of a car share vehicle through Modo
- 15 parking stalls to have Level 2 (240V, AC plug with a dedicated 40 amp circuit) electric vehicle charging stations
- Provision of 12 months of BC Transit bus passes for the Victoria Regional Transit System to all the residents
- Play structure on the usable open space
- Water main upgrade along Constance Avenue (or Nelson Street) in order to provide the sufficient fire flow demand
- That the parcel is not to be subdivided (to prevent stratification)

Council direct staff and legal counsel for the Township to coordinate with the property owner to ensure a Section 219 Covenant addressing the aforementioned issues is registered against the property title, in priority to all financial encumbrances, prior to returning Amendment Bylaw No. 2927 to Council for consideration of adoption.

### **RELEVANT POLICY:**

Official Community Plan Bylaw, 2018, No. 2922

Zoning Bylaw, 1992, No. 2050

Declaration of Climate Emergency

Parking Bylaw, 1992, No. 2011

Development Application Procedures and Fees Bylaw, 2012, No. 2791

Advisory Planning Commission Bylaw, 2012, No. 2792

Subdivision and Development Control Bylaw, 1997, No. 2175

Green Building Checklist

### **STRATEGIC RELEVANCE:**

This Request for Decision does not directly relate to a specific strategic objective.

### **BACKGROUND:**

Appendix A: Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2927

Appendix B: Subject Property Map, Aerial Map, OCP Policies

Appendix C: Architectural Drawings, Landscape Plan, and Surveyor's Site Plan

Appendix D: Green Building Checklist

Appendix E: Applicant's Letter

Appendix F: Parking Study

Appendix G: Developer's Public Consultation Summary

Appendix H: Public Comments

Appendix I: Tree Preservation Plan

### **Purpose of the Application**

The applicant is requesting a change in zoning from the current RM-1 [Multiple Family Residential] zone to a Comprehensive Development District zone. This change is required to accommodate the proposed 6 storey, 71 unit, purpose-built rental, multiple family residential building including a 61 space parking garage.

Evaluation of this application should focus on issues relevant to zoning such as the appropriateness of the proposed height, density and massing, proposed unit sizes, siting, setbacks, lot coverage, usable open space, how the building relates to adjacent and surrounding sites and whether the proposed uses are appropriate and consistent with the overall direction contained within the Official Community Plan.

This site is located within Development Permit Area No. 1 - Natural Environment, No. 6 - Multi-Family Residential, No. 7 - Energy Conservation and Greenhouse Gas Reduction and No. 8 - Water Conservation of the Township's Official Community Plan. Should the rezoning be approved, the form and character of the buildings, landscaping, and consistency with guidelines relating to natural environment protection, energy conservation, greenhouse gas reduction, and water conservation would be controlled by a Development Permit that would be considered by Council at a future date.

### **Context**

Applicant: Praxis Architects Inc. [Heather Spinney]  
Owner: Constance Apartments Inc., Inc.No. BC1128254  
Property Size: Metric: 2840 m<sup>2</sup> Imperial: 16427 ft<sup>2</sup>  
Existing Land Use: Single Family Residential  
Surrounding Land Uses:  
North: Department of National Defence Lands  
South: Single Family Residential  
West: Multiple Family Residential [4 storeys] / Single Family Residential  
East: Multiple Family Residential [4 storeys]  
Existing OCP Designation: High Density Residential [No change required]  
Existing Zoning: RM-1 [Low Density Townhouse Multiple Family Residential]  
Proposed Zoning: CD No. 110 [Comprehensive Development District No. 110]

### **Official Community Plan**

The overall height and density of this proposal is consistent with the current Land Use Designation of 'High Density Residential' as that Land Use Designation accepts buildings up to twelve storeys with a Floor Area Ratio of up to 3.0. The proposed development consists of six storeys with a Floor Area Ratio of 1.60.

OCP Section 3.3 Housing and Community identifies land lying north of Esquimalt Road between Admirals Road and CFB Esquimalt as an area for residential densification.

OCP Section 5.3 Medium and High Density Residential Development states an objective to support compact, efficient, medium density and high density residential development that integrates with existing proposed adjacent uses.

Supporting policies in this section consistent with the proposed development include:

- Encourage new medium density and high density residential development with high quality design standards for building and landscaping and which enhance existing neighbourhoods.

- Prioritize medium density and high density residential development in proposed land use designated areas that:
  1. reduce single occupancy vehicle use;
  2. support transit service;
  3. are located within close proximity to employment centres; and
  4. accommodate young families.
- Consider new high density residential development proposals with a Floor Area Ratio of up to 3.0 and up to 12 storeys in height, in areas designated on the “Proposed Land Use Designation Map.”
- A mix of dwelling unit sizes should be provided in medium density and high density residential land use designated areas in order to meet the varying housing needs of Esquimalt residents.

Section 5.4 of the Official Community Plan states an objective to encourage a range of housing by type, tenure and price so that people of all ages, household types, abilities and incomes have a diversity of housing choice in Esquimalt. The proposed development is consistent with the following policy in this section:

- Encourage the placement of new rental, affordable, special needs, and seniors housing in accordance with designated residential land use areas as they are integral components of inclusive neighbourhoods.

The applicant has agreed to ensure that all the units in this building are used as long-term residential rentals as it is a purpose-built rental development. This will be ensured through a combination of a Housing Agreement and a S.219 Covenant registered on title.

In addition, the applicant is providing 7 affordable housing units for 20 years composed of:

- 3 Bachelor (Studio) Units
- 2 One-Bedroom Units, and
- 2 Two-Bedroom Units.

These units are to be rented at no more than 30% of the gross household income for households with a gross annual income at or below the BC Housing Income Limits for the Victoria region. This is detailed in a Housing Agreement as part of Housing Agreement Bylaw, 2019, No. 2954.

Under Section 13.3.6 Passenger Vehicle Alternatives, the following policies are listed:

- Encourage the installation of electric vehicle charging infrastructure in all new multi-unit developments.
- Pursue the installation of electric vehicle charging capacity in new developments during the rezoning process.
- Encourage the inclusion of car share in new multi-unit residential developments.

The proposed development offers \$500 per unit car shares from Modo car share services. In addition, 15 parking stalls will be provided with Level 2 (240V, AC plug with a dedicated 40 amp circuit) electric vehicle charging stations installed.

Within the DPA No. 6 Multi-Family Residential in the Official Community Plan, 23.5(6) states that underground parking will be provided for any multi-unit residential building exceeding four storeys. Consistent with this policy, the proposed six storey development contains one level of underground parking.

### **Zoning**

The following chart details the setbacks, lot coverage, floor area ratio and parking of the comprehensive development zone. Zoning Bylaw, 1992, No. 2050 does not currently contain a zone that can accommodate the proposed development.

	Proposed CD No. 110 Zone
Residential Units	71
Floor Area Ratio	1.60
Lot Coverage [Parking Level]	81%
Lot Coverage [First Storey]	40%
Setbacks	
• Front	5.8m
• Rear	6.4m
• Interior Side [North]	5.0m
• Interior Side [South]	7.0m
Building Height	21m [6 storeys]
Off Street Parking	61 spaces [0.85/unit]
Usable Open Space	850 m <sup>2</sup> [30.0%]
Bicycle Parking	116 resident + 6 visitor

**Floor Area Ratio:** The Floor Area Ratio of this proposal is 1.60, which is less than the maximum acceptable amount of 3.0 for lands designated High Density Residential in the Official Community Plan.

**Lot Coverage:** The lot coverage measures 81% at the parking level and 40% above the parking level.

**Parking:** Parking Bylaw, 1992, No. 2011 requires 1.3 parking spaces per unit be provided in multiple family developments, with not less than 1 in 4 spaces dedicated to Visitor Parking. Parking areas (i.e. parking lots and underground parking garages) are required to be constructed to meet the standards for maneuvering aisle dimensions and associated parking stall dimensions detailed in Part 14, Table 2, of the Bylaw.

This development proposal incorporates 61 residential parking spaces within an underground parking structure including 7 visitor spaces. The applicant has provided a parking study, prepared by Watt Consulting Group stamped “Received January 18, 2018”, detailing the effectiveness of this parking strategy. This parking study was based on the original design that incorporated 77 dwelling units rather than the current 71 dwelling units.

The following relaxations to Parking Bylaw No. 2011 are proposed:

- Reduction of the number of required parking spaces from 1.3 spaces/unit to 0.85 spaces/unit [i.e. from 93 spaces to 61 spaces]
- Reduction of the number of required Visitor parking spaces from 1 in 4 spaces to 1 in 11 spaces.

### **Changes since the First Reading of the Zoning Amendment Bylaw**

At the Regular Council meeting on August 20th, 2018, Council raised concerns regarding the number of off-street parking spaces provided in relation to the number of dwelling units. Moreover, Council stated a desire for 3-bedroom units to be included in the proposed development.

In response to the recommendations and comments received at this Council meeting, the applicant amended the architectural plans to create six 3-bedroom units by combining six 1-bedroom units and six 2-bedroom units. By lowering their unit count from 77 to 71, the unchanged 61 off-street parking spaces are now provided in the ratio of 0.85 parking spaces per dwelling unit.

At First Reading, 31 parking stalls were proposed to be wired for Level 2 electric vehicle charging stations but did not include the charging stations. As this is a purpose built rental, it is more suited to provide the charging stations. The applicant is now proposing 15 parking stalls to be wired and include Level 2 electric vehicle charging stations.

The applicant is going to provide a car share vehicle through Modo to be located off-site in addition to the previous provision of \$500/unit shares from Modo car share services. Furthermore, the applicant is providing the residents with 12 months of BC Transit bus passes for the Victoria Regional Transit System.

Furthermore, the applicant is going to provide a play structure on the usable open space in the southeast portion of the property. This is also in response to a recommendation by Council at First Reading.

The applicant is providing 7 affordable housing units interspersed within the building. This is detailed in a Housing Agreement that forms part of Housing Agreement Bylaw, 2019, No. 2954.

At the Regular Council meeting on November 26th, 2018, Council gave the Zoning Amendment Bylaw Second Reading.

### **Housing Agreement Bylaw**

At the Regular Council meeting on February 4th, 2019, Council gave First Reading to the Housing Agreement Bylaw, 2019, No. 2954. However, Council raised concerns regarding the 15 year duration of the Housing Agreement.

In response to Council's concerns, the applicant elongated the Housing Agreement to 20 years.

At the Regular Council meeting on March 4th, 2019, Council gave Second and Third Readings to Housing Agreement Bylaw, 2019, No. 2954; however, Council raised concerns in regards to the provision of market workforce housing.

Consequently, the applicant amended the Housing Agreement to include:

- a provision that the dwelling units be residential and not institutional in nature (Section 2.3)
- allocation of not more than 10 units in the proposed development to a single individual, governmental agency or corporation. (Section 2.3)
  - with the exception of management, operation or use by the Department of National Defence and/or Seaspan for workforce housing. (Section 2.3)

At the Regular Council meeting on April 15th, 2019, Council rescinded Third Reading, amended and read anew at Second Reading, and gave Third Reading to the Housing Agreement Bylaw, 2019, No. 2954.

The details of the Housing Agreement as part of Housing Agreement Bylaw, 2019, No. 2954, include the following provisions:

- Other than restricting short-term rentals of less than 30 days, all of the dwelling units are available as rental housing rented under the terms of a residential tenancy agreement that complies with the provisions of a Residential Tenancy Act with the exception of one Caretaker Unit.
- As the proposed development is a purpose-built rental, the owner cannot stratify the building to ensure that the units remain as rental units.
- For a duration of 20 years, a minimum of 7 affordable dwelling units will be provided consisting of
  - 3 Bachelor (Studio) units
  - 2 One-bedroom units, and
  - 2 Two-bedroom units.
- Affordable dwelling units must have an occupancy standard of at least one person per bedroom, and at least one person per bachelor unit.
- Affordable dwelling units must be occupied by households with a gross annual income at or below the BC Housing Income Limits for the Victoria region.
- Affordable rent is defined as no more than 30% of the gross household annual income.

### **Comments from Other Departments**

#### **Community Safety Services:**

Building to be constructed to the requirements of BC Building Code 2012 and Municipal Bylaws. Plans will be reviewed for compliance with BC Building Code upon submission of a Building Permit application.

#### **Engineering Services:**

Engineering staff has completed a preliminary evaluation of Works and Services that would be required for the 71 unit multiple family residential building. Staff confirms that

the design appears achievable on the site and that appropriate works and services are available in the immediate area. If approved, the development must be serviced with bylaw requirements including, but not limited to, new sewer and drain connections, underground power, telephone and cable services, and new road works up to the centre line of both Constance Avenue and Nelson Street. Should the application be approved, additional comments will be provided when detailed engineering drawings are submitted as part of a Building Permit application.

**Parks Services:**

Parks Staff has completed a preliminary review of the proposed on-site and off-site landscaping and commented that the landscape plan looks appropriate. Should the application for rezoning be approved, a tree survey of the trees proposed for retention on the site will be required as part of the consideration of the Development Permit. Moreover, tree protection fencing must be put up at the dripline of all trees to be retained.

**Fire Services:**

Fire Services staff has completed a preliminary review of the proposal and recommends an upgrade of the water main along the full length of Constance Avenue.

**Comments from the Design Review Committee [DRC]**

This application was considered at the regular meeting of the DRC held on March 14, 2018. Members generally liked the development but had concerns with the number of parking spaces. The DRC resolved that the application be forwarded to Council with a recommendation of approval as the proposed development fits in with the character of the neighbourhood and is also in keeping with the current guidelines within the Official Community Plan.

**Comments from the Advisory Planning Commission [APC]**

This application was considered at the regular meeting of the APC held on March 20, 2018. Members liked the development for its purpose of providing rental housing in the Township. They had concerns that the market rentals could be changed to strata title in the future. Staff notes that a Housing Agreement is expected to be registered to ensure that the units remain as market rentals. Members also had concerns with parking and the impact on traffic flow. Furthermore, they would like to see larger rental units in the community. The APC resolved that the application be forwarded to Council with a recommendation of approval as the proposal is a good fit for the existing neighbourhood and will increase rental accommodations for the community.

**ISSUES:**

**1. Rationale for Selected Option**

This application is consistent with the Land Use Designation of the subject property and the policy direction contained within the Official Community Plan for High Density Residential developments. This proposed development is an appropriate location for increased density as it is in close proximity to the CFB Esquimalt, one of the major employers in the Township. This proposed development will also increase the



number of rental units to the Township's housing supply. Moreover, both the Design Review Committee and the Advisory Planning Commission recommended approval of this application.

2. Organizational Implications

This Request for Decision has no organizational implications.

3. Financial Implications

This Request for Decision has no financial implications.

4. Sustainability & Environmental Implications

The applicant has completed the Esquimalt Green Building Checklist, detailing green features that will be considered for inclusion in the development should it be approved [Appendix D].

5. Communication & Engagement

As this is a rezoning application, notices have been mailed to tenants and owners of properties located within 100 metres (328 feet) of the subject property. Notice of the Public Hearing has been placed in two editions of the Victoria News. Furthermore, six signs indicating that the property is under consideration for a change in zoning have been in place on the Constance Avenue frontage and Nelson Street frontage since February 2018 and were updated to show the date, time, and location of the Public Hearing.

As required by the Development Application Procedures and Fees Bylaw, 2012, No. 2791, the applicant delivered notices to properties within 100 metres of the subject property soliciting comments and inviting residents to attend a public open house. This meeting was held from 5pm to 7pm, December 11, 2017 at the Royal Canadian Legion, Esquimalt Dockyard Branch on 622 Admirals Road. Staff confirms that the applicant has provided the required submissions indicating that 17 people attended the meeting [Appendix G]. As of the date of the writing of this Report, staff has received one written comment from the public relating to this application [Appendix H].

**ALTERNATIVES:**

1. Council, upon considering comments made at the Public Hearing, resolves that Amendment Bylaw No. 2927 be given third reading, and staff be directed to coordinate with the property owner to ensure registration of the S.219 covenant on the title of the subject property prior to returning Amendment Bylaw No. 2927 to Council for consideration of adoption.

2. Council postpone consideration of Amendment Bylaw No. 2927 pending receipt of additional information. [Receipt of new information from the applicant or the public would require a new Public Hearing.]

3. Council defeats Amendment Bylaw No. 2927.