



# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall  
1229 Esquimalt Road  
Esquimalt, B.C. V9A 3P1

## Legislation Text

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**File #:** 19-267, **Version:** 1

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### REQUEST FOR DECISION

**DATE:** June 5, 2019

Report No. DEV-19-052

**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 to rescind third reading of Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2927, 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];
2. That Council resolves that Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2927, attached to Staff Report DEV-19-052 as Appendix A, be amended and read anew at third reading; and
3. That, as the applicant wishes to assure Council that uses and development will be restricted and amenities provided as identified in Staff Report DEV-19-052, the applicant has voluntarily agreed to register a Section 219 Covenant on the titles 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
- Two visitor parking spaces
- \$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: Public Hearing Staff Report DEV-19-039, May 6, 2019

#### **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.

Amendment Bylaw No. 2927 was given 1<sup>st</sup> Reading on August 20, 2018 and 2<sup>nd</sup> Reading on November 26, 2018. The Public Hearing was held on May 6, 2019 and the Bylaw was given 3<sup>rd</sup>

Reading.

Since the 3<sup>rd</sup> Reading, the applicant is reducing the number of required visitor parking spaces from 7 spaces to 2 spaces. The purpose is to increase the number of parking spaces for residents. Furthermore, the rent for the residential dwelling unit will include a parking space with the exception of bachelor units and affordable units as part of the Housing Agreement that accompanies Housing Agreement Bylaw, 2019, No. 2954.

### **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]

### **Chronology**

*Zoning Bylaw, 1992, No. 2050, Amendment Bylaw 2927*

August 20, 2018 - 1<sup>st</sup> Reading

November 26, 2018 - 2<sup>nd</sup> Reading

May 6, 2018 - Public Hearing and 3<sup>rd</sup> Reading

*Housing Agreement Bylaw, 2019, No. 2954*

February 4, 2019 - 1<sup>st</sup> Reading

March 4, 2019 - 2<sup>nd</sup> and 3<sup>rd</sup> Reading

April 15, 2019 - Rescind 3<sup>rd</sup> Reading, amend and read anew at 2<sup>nd</sup> Reading, and 3<sup>rd</sup> Reading

### **Changes to Housing Agreement Bylaw, 2019, No. 2954**

At the Regular Council meeting on May 6th, 2019, Council raised concerns regarding the possibility of the proposed development's residents parking on the street rather than in the off-street parking spaces provided in the case that it incurs an added fee. In response, the applicant has amended the Housing Agreement to include a parking space as part of the rent of the residential dwelling unit with the exception of:

- Bachelor units; and
- Affordable units

As there are 4 market rate bachelor units, 3 affordable bachelor units, 2, affordable one-bedroom units and 2 affordable two-bedroom units, the remaining 59 residential dwelling units will include a parking space as part of their rent. In addition, there will be 2 dedicated visitor parking spaces.

### **Changes to Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2927**

Correspondingly, the applicant has reduced the number of parking spaces for visitors from 7 spaces to 2 spaces to accommodate this change in parking allocation. This has been amended in Section 12(b) of Amendment Bylaw No. 2927.

As per the *Local Government Act (470)*,

- “(1) After a public hearing, the council or board may, without further notice or hearing,
- (a) adopt or defeat the bylaw, or
  - (b) alter and then adopt the bylaw, provided that the alteration does not
    - (i) do any of the following:
      - (A) alter the use;
      - (B) increase the density;
      - (C) without the owner’s consent, decrease the density of any area from that originally specified in the bylaw, or
    - (ii) alter the bylaw in relation to residential rental tenure in any area.”

Since the amendment of the Bylaw after the public hearing only altered the allocation of visitor parking, a new public hearing is not required.

### **Changes to Section 219 Covenant**

The Section 219 Covenant to be registered on the titles of 638 Constance Avenue, 640 Constance Avenue, and 637 Nelson Street has been amended to require a minimum of two vehicular parking spaces instead of seven vehicular parking spaces. This has also been amended in the corresponding parking plan.

### **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**

In accordance with post-public hearing considerations, no further communications or engagement are brought to Council.

**ALTERNATIVES:**

1. That Council resolves to rescind third reading of Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2927, amend, and read anew at third reading.
2. That Council defeats Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2927.