



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

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

Legislation Text

File #: 19-328, **Version:** 1

REQUEST FOR DECISION

DATE: July 3, 2019

Report No. DEV-19-065

TO: Laurie Hurst, Chief Administrative Officer

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

SUBJECT:

Official Community Plan Amendment and Rezoning Application - 899 Esquimalt Road

RECOMMENDATION:

That Council receive for information all material presented at the public hearing including written submissions received prior to the public hearing and instruct staff to confirm with the applicant the final amenity package including the terms of the covenant and report back to Council with recommendations for further consideration of the bylaws.

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: Official Community Plan Bylaw, 2018, No. 2922, Amendment Bylaw No. 2962

Appendix B: Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2963

Appendix C: Subject Property Map, Aerial Map, Zoning Map, OCP Land Use Designation Map, OCP Policies

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

Appendix E: Amenities Package

Appendix F: Green Building Checklist

Appendix G: Transportation Impact Assessment

Appendix H: Geotechnical Investigation Report
Appendix I: Built Green Certification Letter of Enrollment
Appendix J: Water Supply Confirmation
Appendix K: Letter from the Fraternal Order of Eagles
Appendix L: Esquimalt Community Health Needs Assessment
Appendix M: Official Community Plan Amendment Consultation Responses
Appendix N: Developer's Public Consultation Summary
Appendix O: Public Comments
Appendix P: Draft S.219 Covenant
Appendix Q: Letter from the West Bay Residents Association

Purpose of the Application

The applicant is requesting a change in Official Community Plan Proposed Land Use Designation from the current mix of 'Neighbourhood Commercial Mixed-Use' and 'Townhouse Residential' to 'Commercial/Commercial Mixed-Use'. The applicant is also requesting a change in Development Permit Area from the current mix of 'Commercial' and 'Multi-Family Residential' to 'Commercial' to better correspond the Development Permit Area guidelines to the proposed development.

In addition, the applicant is requesting a change in zoning from the current mix of C-2 [Neighbourhood Commercial] and RD-1 [Two Family Residential] to a Comprehensive Development District zone. This change is required to accommodate the proposed 12 storey, commercial mixed-use building consisting of an urgent primary care centre and 57 residential units. The urgent primary care centre must be provided in order for residential use to be allowed. The developer must have a minimum ten-year lease with the Vancouver Island Health Authority before a building permit will be issued. Alternatively a lease with a physicians' corporation or a combination of both before a building permit will be issued.

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. 4 - Commercial, 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: Bahaedin Naemi [Lexi Development Group, Inc.]

Owner: 1104488 B.C. LTD.

Property Size: Metric: 1367 m² Imperial: 14713 ft²

Existing Land Use: Commercial on the northern half and Single Family Residential on the southern half

Surrounding Land Uses:

North: Commercial

South: Single Family Residential

West: Commercial Mixed-Use

East: Commercial and Two Family Residential

OCP Proposed Land Use Designation: Neighbourhood Commercial Mixed-Use and Townhouse Residential

Amended OCP Proposed Land Use Designation: Commercial/Commercial Mixed-Use

Existing Zoning: C-2 [Neighbourhood Commercial] and RD-1 [Two Family Residential]

Proposed Zoning: CD No. 120 [Comprehensive Development District No. 120]

Chronology

June 28, 2017 - Rezoning Application submitted

April 11, 2018 - Design Review Committee

May 15, 2018 - Advisory Planning Commission

June 25, 2018 - Adoption of Official Community Plan Bylaw, 2018, No. 2922

January 21, 2019 - Official Community Plan Amendment Consultation List approved by Council

May 27, 2019 - 1st and 2nd Reading

Official Community Plan

On the date of the original submission of this rezoning application on June 28, 2017, the Official Community Plan Land Use Designation was Commercial Mixed-Use (up to twelve storeys) on 899 Esquimalt Road and Multi-Unit, Low-Rise Residential (up to four storeys) on 896 Wollaston Street.

Subsequently on June 25, 2018, Official Community Plan Bylaw, 2018, No. 2922 was adopted. As the subject property is a consolidation of two lots, formerly 899 Esquimalt Road to the north and 896 Wollaston Street to the south, it consists of a split Proposed Land Use Designation of 'Neighbourhood Commercial Mixed-Use' on the northern portion and 'Townhouse Residential' on the southern portion.

The proposed OCP Amendment amends the Proposed Land Use Designation to Commercial/Commercial Mixed Use to accommodate the height and density proposed. In commercial mixed-use areas, buildings with a Floor Area Ratio of up to 3.0 for the residential portion of the building may be acceptable. The proposed development consists of a total Floor Area Ratio of 3.76 with the residential portion accounting for a Floor Area Ratio of 3.51. Hence, this proposal is inconsistent with the acceptable density prescribed in the Official Community Plan. In order to achieve consistency with the OCP, the applicant is proposing to provide amenities through density bonusing for the benefit of the community.

OCP Section 3.3 Housing and Community identifies the Esquimalt Road corridor as an area for residential densification. The OCP also supports the provision of a variety of housing types and tenures delivered by both market and non-market developers to support the housing needs of a diverse demographic.

OCP Section 5.1 states a policy to 'support the development of a variety of housing types and designs to meet the anticipated housing needs of residents. This may include non-market and market housing options that are designed to accommodate young and multi-generational families, the local workforce, as well as middle and high income households.'

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 and 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.
 5. 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.
- Encourage the incorporation of spaces designed to foster social interaction.
- Encourage the installation of electric vehicle charging infrastructure in medium and high density residential developments.

Section 5.6 Family and Child-friendly Housing states an objective to address the shortage of family and child-friendly housing in Esquimalt. The proposed development has a mixture of dwelling unit sizes, including 10 3-bedroom apartment dwelling units and 3 2-bedroom townhouse dwelling units, along with a proposed urgent primary care centre which would be consistent with the following policy:

- Encourage the provision of medium and high density commercial mixed-use developments designed for families with children.

Section 6.1 Commercial & Commercial Mixed-Use Land Use states an objective to establish Esquimalt as a complete community where commercial enterprises serve the needs of area residents, local businesses, and visitors.

As the proposed development has a floor area ratio of 3.51 for the residential portion of the development, it is inconsistent with the following policy:

- In commercial mixed-use areas, buildings with a floor area ratio of up to 3.0 for the residential portion of the building may be acceptable.

However, the following policies address the use of density bonus for this proposed development in order to achieve consistency with the Official Community Plan:

- Consider, where appropriate, development proposals with densities greater than those set out in the OCP through density bonus of floor-space provided that the additional density results in the provision of community amenities deemed appropriate by Council for the benefit of the community.
- Recognize, for the purposes of density bonuses, “amenities” may include but are not limited to:
 1. Privately-owned, publicly-accessible open space;
 2. Public art;
 3. Contributions towards the enhancement of public recreation facilities;

4. Contributions towards street and boulevard enhancements, including street furniture and decorative lighting;
5. Building to a higher step of the BC Energy Step Code than required under the Building Bylaw;
6. Group daycare and respite for children and adults;
7. Preservation of heritage structures, features or assets;
8. Affordable housing units;
9. Special needs housing units;
10. Community gardens;
11. Enhanced green family play space for residents;
12. Public space improvements supporting and surrounding transit stations; and
13. Other as may be appropriate to the development proposal or surrounding community as deemed appropriate by Council.

The following Table compares the amenities in the current bylaw with possible refinements to the amenity package:

Amenities in the Current Bylaw	Possible Refinements to the Amenity Package
Temporary Medical Facilities	Option to lease commercial space for a clinic in lieu of providing the containers
Kayak dock constructed and located in West Bay	Option to provide a financial contribution to a municipal reserve fund of \$150,000 to be used to build the dock in the future
Five parking spaces with publically available electric vehicle charging stations	Option to add free charging for a minimum of 10 years
Built Green Canada Silver certification	No change (see Section 219 Covenant for details)
Removal of existing utility pole and undergrounding of the hydro lines.	No change (see Section 219 Covenant for details)

The proposed development is also generally consistent with the following policies of this section:

- Encourage a mix of uses in the commercial/commercial mixed-use areas.
- The majority of the frontage for commercial mixed-use buildings at the ground floor, should be commercial.
- On corner sites, the ground floor commercial use in mixed-use buildings should wrap around the corner.
- In commercial/commercial mixed-use developments, parking should be located behind or under the building.
- The installation of electric vehicle charging infrastructure in commercial/ commercial mixed-use developments is encouraged.
- Encourage the provision of amenities such as mini parks/plazas, street furniture, public art and decorative lighting on private lands in all commercial areas.
- To encourage the use of bicycles, provisions should be made in all commercial/ commercial mixed-used developments for bicycle parking for employees and visitors.

Section 6.4.1 Head Street and Esquimalt Road states an objective to create a vibrant commercial mixed-use node centered around the intersection of Esquimalt Road and Head Street with the following policies:

- Esquimalt's secondary commercial area is located along Esquimalt Road at Head Street.
- Encourage redevelopment in the Head Street/Esquimalt Road Neighbourhood Commercial Mixed-Use Area.
- Redevelopment should occur at a neighbourhood scale.

Section 11.3.1 Public Cycling Infrastructure states the following policy:

- Encourage end-of-trip facilities including secure lockup and shower facilities.

Section 11.3.2 New Development states the following policy:

- Encourage developers to provide a variety of end-of-trip facilities for active transportation.
- Encourage bike lockers in multi-unit residential and commercial/commercial mixed-use developments.

Section 13.3.3 Building Energy Efficiency states the following policy:

- Adopt best practices based on evolving building technologies and materials.
- Encourage the adoption of passive, efficient, and renewable energy systems in new buildings and during building retrofits.
- Investigate options for encouraging developers to achieve high energy performance in new developments through such tools as density bonusing, expedited permit approval process, rebate of development fees, revitalization tax exemption, and other incentives.
- Pursue higher energy-efficiency performance in new developments, through the achievement of higher steps in the BC Energy Step Code as an amenity associated with rezoning.

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 applicant is proposing 5 parking spaces with publicly available electric vehicle charging stations.

Relevant Development Permit Area Guidelines to consider as it relates to the rezoning application include:

- Avoid disturbing, compacting and removing areas of natural soil as this can lead to invasion by unwanted plant species, poor water absorption and poor establishment of new plantings. Use of local natural soil in disturbed and restored areas will support re-establishment of ecosystem functions.
- Buildings should be designed and sited to minimize the creation of shadows on public spaces.
- Off-street parking areas should be located either at the rear of commercial buildings or underground. Surface parking should be screened with landscaping. Large parking areas should contain additional islands of landscaping.

- The size and siting of buildings that abut existing single- and two-unit and townhouse dwelling should reflect the size and scale of adjacent development and complement the surrounding uses. To achieve this, height and setback restrictions may be imposed as a condition of the development permit.
- New buildings should be designed and sited to minimize visual intrusion on to the privacy of surrounding homes and minimize the casting of shadows on to the private outdoor space of adjacent residential units.
- High-density multi-unit residential buildings or mixed commercial/residential buildings in commercial areas should be designed so that the upper storeys are stepped back from the building footprint, with lower building heights along the street front to address human scale, public space, and maximum light penetration at street level.
- Underground parking should be encouraged for any multi-unit residential buildings exceeding four storeys.
- Orient buildings to take advantage of site specific climate conditions, in terms of solar access and wind flow; design massing and solar orientation for optimum passive performance.
- Build new developments compactly, considering the solar penetration and passive performance provided for neighbouring sites, and avoid shading adjacent to usable outdoor open spaces.
- In commercial, residential or commercial mixed-use designated areas with taller developments, vary building heights to strategically reduce the shading on to adjacent buildings.

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 have a zone that can accommodate the proposed development.

	Proposed CD No. 120 Zone
Residential Units	57
Floor Area Ratio	3.76
Lot Coverage	87%
Setbacks	
• Front [Esquimalt Road]	3.4 m
• Rear [Wollaston Street]	6.3 m
• Interior Side [East]	0 m
• Exterior Side [Head Street]	0 m
Building Height	45.3m [12 storeys]
Off Street Parking	94
Bicycle Parking	114

As Zoning Bylaw, 1992, No. 2050 defines the First Storey as “the uppermost Storey having its floor level not more than 2 metres above grade,” the ‘P1’ level is considered the First Storey. Hence, this building consists of 12 storeys as there are 11 storeys above the ‘P1’ level.

Parking Bylaw, 1992, No. 2011 requires 1.3 parking spaces per unit to be provided for High density apartments and 2 spaces per unit for townhouses. In addition, one parking space per 25 square metres of gross floor area of commercial space (under other commercial) is required. This proposal incorporates 94 parking spaces within the structure, exceeding the required amount of 90 parking spaces. The Transportation Impact Assessment by Bunt & Associates recommends 95 parking spaces, which is similar to the amount proposed. The Bunt & Associates assessment was also based on a building with 70 units rather than the 57 currently proposed. Moreover, the subject property has a Walk Score of 74 which is considered 'Very Walkable'.

Green Building Features

The applicant has completed the Esquimalt Green Building Checklist [Appendix F].

Comments from Other Departments

Community Safety Services:

Building to be constructed to requirements of BC Building Code 2018 and Municipal Bylaws. Applicant must address all issues contained within the Township Development Protocol should application be approved. Plans will be reviewed for compliance with BC Building Code upon submission of a Building Permit application.

Engineering Services:

Engineering staff have completed a preliminary evaluation of Works and Services that would be required at 899 Esquimalt Road. 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 in accordance with bylaw requirements including, but not limited to, new sewer and drain connections, underground hydro, telephone and cable services and new road works may be required up to the centre line of Esquimalt Road, Head Street and Wollaston Street. Should the application be approved, additional comments will be provided when detailed civil engineering drawings are submitted as part of a Building Permit application.

Parks Services:

A tree cutting permit is required for any tree removal. Tree protection fencing set up at the drip line to be provided for all the trees to be retained, prior to commencement of site preparation, demolition and construction.

Fire Services:

Fire Services staff has completed a preliminary review of the proposed plans and have no concerns at this time aside from the addressing.

Comments from the Design Review Committee [DRC]

This application was considered at the regular meeting of the DRC held on April 11, 2018. At this time, the application was reviewed against the Official Community Plan Bylaw, 2006, No. 2646. Within the 2006 OCP, the subject property had a designation of 'Commercial Mixed Use' on the northern half, which accepts developments with up to 12 storeys in height and 'Multi-Unit, Low-Rise Residential' on the southern half, which accepts residential developments with up to 4 storeys in height.

The committee members had concerns with the height of the proposed development as the proposed 13 storeys is not acceptable under the Commercial Mixed-Use Designation. They liked the aesthetics of the proposed building on all sides except for the eastern façade. Moreover, they liked the green wall system but raised concerns regarding the maintenance costs for the strata corporation.

The DRC resolved unanimously that the application be forwarded to Council with a recommendation of approval subject to the following conditions:

- That the proposed building height conforms to the current OCP
- That the aesthetics of the east face of the building be enhanced to be as attractive as the north, south and west elevations
- The financial responsibility for the maintenance of the green wall needs to be detailed

and for the following reasons:

- The overall design of the project generally met the intent of the OCP for that location
- The proposed design provided an attractive north elevation along Esquimalt Road
- The proposed design was sensitive to the adjacent residential neighbourhood by stepping down on the south side.

In response to the recommendation, the applicant has amended the plans for the proposed development to address these issues. The proposed building height was reduced to 12 storeys while the east face has been finished with spandrel curtain wall panels. In addition, the green wall system was amended to be a low maintenance system to minimize the financial burden to the future strata corporation.

Comments from the Advisory Planning Commission [APC]

This application was considered at the regular meeting of the APC held on May 15, 2018. The members had concerns with the height of 12 storeys. Nonetheless, they generally liked the design concept with the exception of the east façade where spandrel curtain panels were introduced to address the blank concrete wall. Due to BC Fire Code and the zero setback to the east lot line, windows are not allowed on this façade. The members recommended the registration of an easement for access to the adjacent lot to the east via the parkade to accommodate future development. Members felt that the parking is sufficient for the site and that the rooftop green space would be a suitable location for garden plots.

The APC resolved that the application be forwarded to Council with a recommendation of approval as this proposal in conjunction with an amenity package including approximately 40 affordable units, could revitalize a prominent corner in Esquimalt with the following conditions:

1. That easements be registered for future access to the adjacent east lot via the parking lots;
2. Provision of a comprehensive amenities package prior to Public Hearing; and
3. Reconsideration of the east façade with regards to setback, green wall and windows.

The application at the date of the meeting APC included a proposed density bonus amenity of 40 affordable rental residential units to be located off site. Since the APC reviewed the proposed development the developer has offer an alternative amenity package that does not include 40 affordable rental residential units. The amended amenity package is outlined above.

With regard to the easements, the developer will discuss this issue with the neighbouring land owner.

Comments from the Official Community Plan Consultation

The Official Community Plan Amendment application was circulated to a Consultation List approved by Council on January 21, 2019.

Development Services staff received 3 responses.

1. The Esquimalt Chamber of Commerce supports the request to amend the proposed land use designation for this application.
2. The West Bay Residents Association does not support the Official Community Plan amendment stating concerns with the increase in height and density.
3. The City of Victoria supports the Official Community Plan amendment stating that the amendment is in line with the objectives of the Victoria Official Community Plan, regarding the location of new housing within walking distance of amenities, shops and services. They also state that the contribution of community amenities to be aligned with Victoria's Official Community Plan and that the amenity would be beneficial to residents of both Esquimalt and Victoria. However, City of Victoria staff recommends that the Township of Esquimalt staff consult City of Victoria staff on an appropriate design and request for a Statutory Right of Way or highway dedication in addressing concerns for shared designated bicycle route and Frequent Transit route along Esquimalt Road.

ISSUES:

1. Rationale for Selected Option
The proposed development would include a urgent primary care centre. It will also provide increased residential density in a location within walking distance of amenities, consistent with Official Community Plan policies.
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 F].
5. Communication & Engagement
As this is a rezoning application, notices were mailed to tenants and owners of properties located within 100 metres (328 feet) of the subject property. Notice of the Public Hearing was placed in two editions of the Victoria News. Furthermore, four signs indicating that the property is under consideration for a change in zoning have been in place on the Esquimalt Road, Head Street and Wollaston Street frontage since February 2018 and were updated to show the date, time, and location of the Public Hearing.

As required by the Township's 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. The first meeting was held from 5pm to 7pm on February 9, 2018 at 901 Esquimalt Road. The second meeting was held from 6:30pm to 8:30pm at the Royal Canadian Legion, Esquimalt Dockyard Branch on 622 Admirals Road. Staff confirms that the applicant has provided the required submissions indicating that 67 people attended the first meeting on February 9, 2018 and 30 people attended the second meeting on July 5, 2018 [Appendix N].

ALTERNATIVES:

1. That Council receive for information all material presented at the public hearing including written submissions received prior to the public hearing and instruct staff to confirm with the applicant the final amenity package including the terms of the covenant and report back to Council with recommendations for further consideration of the bylaws.
2. Council postpone consideration of Amendment Bylaw No. 2962 and No. 2963 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 Bylaws No. 2962 and No. 2963.