



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

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

Legislation Text

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REQUEST FOR DECISION

DATE: June 26, 2020

Report No. DEV-20-045

TO: Laurie Hurst, Chief Administrative Officer

FROM: Trevor Parkes, Senior Planner and Bill Brown, Director of Development Services

SUBJECT:

Rezoning Application -1048 Tillicum Road

RECOMMENDATION:

1. That Council resolves that Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2994, attached as Appendix A to Staff Report DEV-20-045, which would amend Zoning Bylaw, 1992, No. 2050, by changing the zoning designation of 1048 Tillicum Road [PID 005-010-390, Lot D, Section 10, Esquimalt District, Plan 11683], shown cross-hatched on Schedule 'A' of Bylaw No. 2994, from Two Family Residential [RD-1] to Comprehensive Development District No. 132 [CD. No. 132], 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-20-045, the applicant has voluntarily agreed to register a Section 219 Covenant on the title of 1048 Tillicum Road [PID 005-010-390, Lot D, Section 10, Esquimalt District, Plan 11683] 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:

- The existing buildings will only be used for their current uses prior to demolition,
- The number of dwelling units in the new development will remain at no more than five [5] units, as stated in Bylaw No. 2994,
- Three (3) visitor parking spaces will be provided and remain as illustrated in the Site Plan, SK-1, attached in Appendix D of Staff Report DEV-20-045,
- Installation of an electric vehicle charging station in each of the five [5] private garages and at each of the three [3] visitor parking spaces,
- Installation of screening around the garbage and recycling area,
- Installation of two visitor bicycle lockups within the parking area, and
- A constraint on the future strata corporation that the rental of the units will not be restricted.

To this end, 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. 2994 to Council for consideration of adoption.

RELEVANT POLICY:

Declaration of a Climate Emergency

Local Government Act

Official Community Plan Bylaw, 2018, No. 2922

Zoning Bylaw, 1992, No. 2050

Parking Bylaw, 1992, No. 2011

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

Advisory Planning Commission Bylaw, 2012, No. 2792

Subdivision and Development Control Bylaw, 1997, No. 2175

STRATEGIC RELEVANCE:

Livable, healthy and diverse community - support community growth, housing, and development consistent with our Official Community Plan (OCP).

BACKGROUND:

Appendix A: Bylaw No. 2994 - Zoning Amendment [CD132] - 1048 Tillicum Road

Appendix B: Site Plan, Air photo, OCP Designation & Zoning maps, RM-3 zone

Appendix C: Applicant's Narrative and Green Features List

Appendix D: Architectural Drawings, Colour Board, Optional Garage Design, Shadow Study, BCLS, Landscape Plan

Appendix E: Transportation Planner - Left Turn Access Review

Appendix F: Community Open House package

Appendix G: Notice of Waived Public Hearing

Appendix H: Public Feedback

Appendix I: Staff's Presentation to Council - July 6, 2020

Appendix J: Applicant's Presentation to Council - July 6, 2020

Purpose of the Application

The applicant is requesting a change in zoning from the current RD-1 [Two Family Residential] zone to a Comprehensive Development District Zone [CD] to accommodate the proposed five strata townhouse residences to be constructed in two buildings on the subject property.

The existing duplex would be demolished and five new dwelling units would be constructed. Specific form and character issues relating to the aesthetics of the building, such as cladding materials, window materials, railings, fencing, doorways, streetscape improvements and detailed landscaping will be evaluated in a separate application for Development Permit should this rezoning application be approved by Council.

Council considered Bylaw No. 2994 on March 16, 2020 reading it a first time but withholding consideration of second reading until the applicant presented amended plans that increased the width of the garages and improved storage options in the proposed design.

In response to this direction the applicant revised the plans to provide the option to the first purchaser of a unit to install the lower floor hallway wall or retain a wider garage parking space, depending on the purchasers needs. The applicant has also noted that a notable amount of storage can be

achieved in the lower floor flex room through the installation of a floor to ceiling cabinetry which occupies limited floor space and does not undermine the functionality of the flex room. Based on these changes Council read Bylaw No. 2994 a second time on April 27, 2020.

Council waived the holding of a public hearing for Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2994, in accordance with Section 464(2) and 467 of the *Local Government Act* on June 1, 2020. The *Local Government Act* does not require the holding of a public hearing when zoning bylaw amendments are consistent with the municipality's Official Community Plan.

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, useable open space, how the building relates to adjacent and surrounding sites and whether the proposed uses are appropriate.

Context

Applicant: Zebra Design [David Yamamoto]
Owner: 1175902 BC Ltd., Inc. No. BC1175902 [Andrew Mills]

Property Size: Metric: 998 m² Imperial: 10,742 ft²
Existing Land Use: Two Family Dwelling

Surrounding Land Uses:

North: 5 Townhouses/ Esquimalt Gorge Park
South: Two Family Residential
West: Single Family Residential
East: Single Family Residential/ Two Family Residential

Existing Zoning: RD-1 Two Family Dwelling
Proposed Zoning: CD-132 [Comprehensive Development District No. 132]

Existing OCP Designation: Low Density Residential
Proposed OCP Designation: Townhouse Residential [no change required]

Zoning and Parking

In keeping with other recent townhouse projects, the proposed Comprehensive Development District zone would contain the following uses: townhouse residential, two family residential, home occupation, and boarding.

The following table compares the floor area ratio, lot coverage, setbacks, height, and parking of this proposal with the requirements of the High Density Townhouse Residential Zone [RM-3].

	RM-3 (Multiple Family Townhouse)	Proposed CD-132 Zone 1048 Tillicum Road (5 Townhouse Units)
Minimum Unit Size	75 m ²	130 m ²
Floor Area Ratio	0.60	0.68
Lot Coverage	25%	35%
Setbacks <ul style="list-style-type: none"> • Front • Rear • Side [Northeast] • Side [Southwest] • Building Separation 	7.5 m 7.5 m 4.5 m 4.5 m N/A	6.8 m [4.7 m to decks] 7.7 m [4.7 m to stairs] 3.0 m [2.65 m to cantilever] 2.9 m [2.55 m to cantilever] 7.6 m [6.2 m to cantilever]
Building Height	9.0 m	9.9 m/ 8.5 m
Off Street Parking	10 spaces	8 spaces [3 Visitor]

Floor Area Ratio: FAR measures livable space in ratio to the size of the lot on which a building sits. The combined FAR of this proposal is 0.68 which is less than the 0.70 in the CD No. 106 Zone immediately to the north. It is consistent with the maximum FAR of 0.70 identified within the OCP in areas designated for Townhouse Residential. This proposed density delivers five units, four - 3 bedroom and den units and one - 2 bedroom and den unit.

Lot Coverage: The combined Lot Coverage is 35% which is consistent with the 34% lot coverage in the CD No. 106 zone immediately to the north. Recent Townhouse Residential projects considered by Council have Lot Coverage in excess of 30%.

Setbacks: The proposed front setback is 4.7m to the front deck and 6.8m to the front face of the principal building. The northeastern side setback is 2.6m to the overhang of the principal building while the southwestern side setback is 2.5m to the overhang of the principal building. In addition, the rear setback is 4.7m to the base of the closest stairs accessing the second storey decks but exceeds the 7.5m setback to the foundation of the building. The separation between the buildings is maintained at 7.6 metres on the ground floor but reduces to 6.2 metres when the cantilevered portions of the upper floor of both buildings is considered. Staff note that when considering infill development proposals on specific sites, setbacks are often reduced to allow densification but these reductions must be carefully considered to ensure the project sensitively integrated in the existing neighbourhood.

Height: High density Townhouse Developments in Esquimalt are limited to a height of 9.0 metres measured to the mid-height of the roof from average grade. The applicant proposes the two unit building measure 9.9 metres, greater than the established standard while the three unit building measures 8.5 metres, less than the established maximum height. The height of the two- unit building is a by-product of the revised grading plan for the site that better ties the lands into the neighbouring site to the north. This change to grading results in fewer, and lower retaining structures being required in the development. Building A (two unit building) remains lower in overall height than the

neighbouring building to the north thereby maintaining a consistent appearance on the south sloping street as detailed in Appendix D.

Parking: Parking Bylaw, 1992, No. 2011 requires 2 parking spaces per unit be provided “behind the front face of the principle building” for Townhouse developments. This proposal incorporates a single car garage in each unit and an additional 3 visitor parking spaces thereby failing to satisfy this standard. Notwithstanding this inconsistency with the current Parking Bylaw requirement, staff are of the opinion that the provision of 3 visitor spaces is sufficient for a five unit development. Staff will be working with the applicant to ensure these spaces are secured as visitor parking spaces and cannot be dedicated to any one unit for exclusive use.

Garage parking spaces meet the dimension requirements of Parking Bylaw No. 2011 and should a purchaser opt to eliminate the lower floor hallway wall these spaces notably exceed the parking space minimum width regulations.

The maneuvering aisle meets the required minimum width of 7.6 metres serving two rows of parking and has been graded to ensure adequate access is provided to allow the Esquimalt Fire Department to park their apparatus on the property, off Tillicum Road.

There is regular transit service in the area, on Tillicum Road with route #26, and approximately 300 metres away on Craigflower Road with route #14.

Official Community Plan

This proposal complies with the ‘Townhouse Residential’ “Proposed Land Use Designation” (OCP Schedule B).

The Official Community Plan supports the expansion of housing types in residential areas. The immediate neighbourhood contains a mix of single family, two-family, townhouse and multi-family housing types.

Section 5 Housing & Residential Land Use contains policies that are intended to ensure that concerns such as tree protection, parking, traffic, noise, effects on neighbouring properties, and neighbourhood character are addressed.

- Policy - Consider new townhouse residential proposals with a Floor Area Ratio of up to 0.70, and up to three storeys in height, in areas designated ‘Townhouse Residential’ on the “Proposed Land Use Designation Map”, provided the design responds effectively to both its site and surrounding land uses.
- Policy - 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.

5.2 Low Density Residential Redevelopment

Objective: Strive for redevelopment and infill development that improves and enhances the

appearance and livability of neighbourhoods and the community as a whole.

- Policy - Proposed redevelopment or infill within present low density residential land use designated areas should be built to high quality design and landscaping standards and respond sensitively to existing neighbourhood amenities.

5.4 Affordable Housing

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.

- Policy - Encourage the provision of missing middle housing types such as two-unit dwellings (duplexes), townhouses and small lot infill as one avenue to address housing affordability.

11.3 Cycling - 11.3.2 New Development

Objective: To encourage the inclusion of bicycle facilities in new developments.

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

OCP Section 23 Multi-Family Residential Development Permit Area establishes objectives for the form and character of multi-family residential development. As the Development Permit is not being considered at this time it would be inappropriate to address many of the guidelines, with the following exceptions that are relevant to the discussion of zoning and parking issues:

23.5 Guidelines

1. The size and siting of buildings that abut existing single- and two-unit and townhouse dwellings 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.
2. 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.
9. Retention and protection of trees and the natural habitat is encouraged wherever possible.
10. Townhouses will be designed such that the habitable space of one dwelling unit abuts the habitable space of another unit and the common wall overlap between adjoining dwellings shall be at least 50 percent.
14. Provide for building occupants to overlook public streets, parks, walkways and spaces, considering security and privacy of residents.

The property is also included in the following OCP Development Permit Areas:
Development Permit Area No. 1 - Natural Environment,

Development Permit Area No. 7 - Energy Conservation and Greenhouse Gas Reduction,
Development Permit Area No. 8 - Water Conservation.

Many of these guidelines would be addressed at the Development Permit stage but the following are relevant to the discussion of zoning and parking areas, including in particular the siting of proposed buildings.

OCP Section 18 Development Permit Area No. 1 - Natural Environment is designated for the purpose of establishing objectives for the protection of the natural environment, its ecosystems and biological diversity.

18.5.2 Natural Features - Natural features and areas to be preserved, protected, restored, and enhanced where feasible:

1. Retain existing healthy native trees, vegetation, rock outcrops and soil wherever possible.
4. Narrower manoeuvring aisles, fewer and smaller parking spaces can be considered where natural areas are being conserved.

18.5.3 Biodiversity - Landscaping features that will protect, restore and enhance biodiversity. Where feasible:

10. Design retaining wall spacing and landscape planting areas of sufficient width and depth to support plantings (eg. provide larger spaces for trees).

18.5.5 Drainage and Erosion - Measures to control drainage and shoreline erosion. Where it is reasonable:

1. Preserve, restore and enhance treed areas. Trees are the most effective form of absorbent landscaping due to their extensive root zones and their ability to both absorb water from the soil and intercept precipitation on leaves, needles and branches. Consider that native conifers are well adapted to local wet winters.
4. Maximize the ratio of planted and pervious surfaces to unplanted surfaces, and design paved areas to direct water towards vegetated areas, to help reduce surface run off. Where paved surfaces are needed, intersperse with drought resistant vegetation and trees, to help absorb stormwater, provide shade and reduce the local heat island effect.

OCP Section 24 - Development Permit Area No. 7 - Energy Conservation and Greenhouse Gas Reduction - is designated for the purposes of energy conservation and greenhouse gas reduction.

24.5.1 Siting of Buildings and Structures. Where it is feasible:

1. 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.
2. Build new developments compactly, considering the solar penetration and passive performance provided for neighbouring sites, and avoid shading adjacent to usable outdoor open spaces.

5. Strategically site buildings to sustain and increase the community's urban forest tree canopy cover.
6. Provide space for significant landscaping including varying heights of trees, shrubs and ground covers.

24.5.3 Landscaping - Where it is feasible:

2. Choose open space and landscaping over dedicating space to the parking and manoeuvring of private motor vehicles.

OCP Section 25 - Development Permit Area No. 8 - Water Conservation - is designated for the purpose of water conservation.

25.5.1 Building and Landscape Design. Where it is feasible:

1. Reduce the burden on built stormwater infrastructure by designing on-site retention systems to retain the first 3 centimetres (1.25") of stormwater on site, per precipitation event.
2. Provide space for absorbent landscaping, including significantly sized trees on the site and by not allowing underground parking structures to extend beyond building walls.
4. Incorporate rain gardens into landscaping and direct rainwater towards vegetated areas.

25.5.3 Landscaping - Retaining Stormwater on Site (absorbent landscaping).

Where it is feasible:

1. Preserve and restore treed areas. Trees are the most effective form of absorbent landscaping due to their extensive root zones and their ability to both absorb water from the soil and intercept precipitation on leaves, needles and branches. Consider that native conifers are well adapted to local wet winters.

Comments from Other Departments:

The plans for this proposal were circulated to other departments and the following comments were received:

Building Inspection: No concerns. Buildings to be constructed to current BC Building Code and Municipal Building Regulation Bylaw, 2017, No. 2899. Subject to code and bylaw review at time of building permit application.

Engineering Services: Engineering staff have completed a preliminary evaluation of Works and Services that would be required for the five townhomes proposed to be located at 1048 Tillicum Road. Staff confirm 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 and underground hydro, telephone and cable services. New gutter, curb and sidewalk along the Tillicum Road frontage may also be required. Should the application be approved, additional comments will be provided when detailed civil engineering drawings are submitted as part of a

Building Permit application.

Fire Services: Esquimalt Fire Department [EFD] require the angle of approach from Tillicum Road up the driveway be constructed to accommodate a transition not exceeding 8% slope to ensure unrestricted access is achievable with the EFD apparatus. *[The applicant responded to this requirement, amending the First 9.14m of the driveway to an 8% slope].*

Parks Services: Protect trees on neighbouring properties as per Tree Protection Bylaw. Apply for all tree removals through Parks Services.

Development Services: Preliminary review of these plans raises a question regarding the appropriateness of permitting unrestricted left turn access both to and from Tillicum Road to this proposed development, particularly at times of peak traffic. Staff recommends the applicant commission a traffic study, completed by a qualified professional, to clarify if a potential issue exists and if one does, recommendations to mitigate such risk. *[The applicant responded to this requirement by providing a review of the site access from Tillicum Road prepared by Bunt and Associates Transportation Planning and Engineering attached hereto as Appendix E]].*

Recommendation from the Advisory Planning Commission [APC]

This application was considered at the regular meeting of the APC held on Tuesday, June 18, 2019. The APC members supported this application and made the following recommendation:

“The Esquimalt Advisory Planning Commission [APC] recommends for approval with the following conditions:

- 1. Reconsideration of the design of windows on the south side of Building B to address overlook of the neighbouring property to the south.*
- 2. Reconsideration of design of the patio doors on Building A facing Tillicum appear more like front doors to the units.*
- 3. Consideration be given to amending the site plan to provide access to the rear yard SRW.*
- 4. Consideration be given to addressing traffic management concerns particularly regarding the left turn for this proposed development.*

For the reason that the proposed design is complimentary and consistent with the local pattern of redevelopment and the reduced setbacks can be mitigated through minor changes in design elements.”

Note: The applicant responded to comments of the APC members by adding trees to the southern lot line, raising the dining room windows on the south elevation of Building A and raising all three main floor windows on Building B. The applicant also commissioned a review of the left turn into the development from Tillicum Road which recommends no action is required [Appendix E].

Public Works staff reviewed the proposed design for the area south of Building B and have no concerns regarding access to local services.

Recommendation from the Design Review Committee [DRC]

This application was considered at the regular meeting of the DRC held on July 10, 2019. The DRC members supported this application and made the following recommendation:

“The Esquimalt Design Review Committee [DRC] recommends for approval with the following conditions:

- 1. That the applicant commission a traffic study completed by a qualified professional to identify for potential issues and the risk related to the unrestricted left turn access to and from Tillicum Road.*
- 2. That the applicant increases the side yard setback to be consistent with the RM-3 Zone in order to provide and eliminate the issues of overlook between the existing townhomes to the north.*
- 3. That a screening component within the zone similar to the neighboring property be included.”*

For the reason that it reflects the evolving nature of the proposed development and evolving context of Tillicum Road.

Note: The applicant responded to the comments of the DRC members by commissioning a review of the left turn into the development from Tillicum Road which recommends no action is required [Appendix E]. The applicant has raised main floor windows on the southern elevation of both Building A and Building B and proposes the installation of trees on the southern lot line and across the entire rear lot line to better mitigate overlook to abutting parcels.

Timeline

May 9, 2019 - Rezoning application received.

June 18, 2019 - Advisory Planning Commission provides a recommendation.

July 10, 2019 - Design Review Committee provides a recommendation.

August 30, 2019 - Revised Drawings provided detailing changes resulting from APC and DRC comments.

February 13, 2020 - Revised Drawings provided detailing changes resulting from an amended grading plan for the site.

March 10, 2020 - Revised drawings provided clarifying EV charger locations and the height of retaining walls.

March 16, 2020 - 1st reading of Bylaw No. 2994 by Council.

April 27, 2020 - 2nd reading of Bylaw No. 2994 by Council based on amended plans.

June 1, 2020 Council approves Waiving the Public Hearing for Bylaw No. 2994.

June 22, 2020 - Staff send mail notices, ensure on-site signage is updated, post relevant information the Township website and coordinate VicNews ads as required by *Local Government Act*.

July 6, 2020 - Council considers 3rd reading of Bylaw No. 2994 and considers directing staff and the Township Solicitor to coordinate with the applicant to register a Section 219 covenant on the title of the property.

ISSUES:

1. Rationale for Selected Option

The Advisory Planning Commission and the Design Review Committee have recommended approval of this application. The applicant has responded to comments from the DRC, the APC, and staff and has improved the proposal over the original submission. Furthermore, the applicant

has responded to the comments received from council at the March 16th Council Meeting amending the proposed design to include optional wider garages and noting additional storage opportunity in the Flex Room.

The applicant has indicated a willingness to enter into a Section 219 Covenant to secure on-site amenities, including:

- The existing buildings will only be used for their current uses prior to demolition,
- The number of dwelling units in the new development will remain at no more than five [5] units, as stated in Bylaw No. 2994,
- Three (3) visitor parking spaces will be provided and remain as illustrated in the Site Plan, SK-1, attached in Appendix D of Staff Report DEV-20-045,
- Installation of an electric vehicle charging station in each of the five [5] private garages and at each of the three [3] visitor parking spaces,
- Installation of screening around the garbage and recycling area,
- Installation of two visitor bicycle lockups within the parking area, and
- A constraint on the future strata corporation that the rental of the units will not be restricted.

Approval of this development would continue the densification and revitalization of the 1000 block of Tillicum Road. The addition of desirable, 'missing middle' family oriented housing close to transit services and a major park would improve housing choice in the area.

2. Organizational Implications

This Request for Decision has no significant organizational implications.

3. Financial Implications

This Request for Decision has no significant financial implications.

4. Sustainability & Environmental Implications

Increasing residential density in existing neighbourhoods, particularly along major transportation corridors and transit routes is believed to make a community more sustainable.

The applicant has provided a list of proposed green features in lieu of the Township Green Building Checklist [Appendix C].

5. Communication & Engagement

Applicant Community Open House Submission

The applicant held a public meeting (open house) and met with neighbours on October 9, 2019, in order to comply with the public consultation procedures of Development Application Procedures and Fees Bylaw, 2012, No. 2791 [Appendix F].

Public Notification

On June 1, 2020, Council waived the holding of a Public Hearing for Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2994 in accordance with Section 464(2) and 467 of the *Local Government Act*. The *Local Government Act* does not require the holding of a public hearing in relation to zoning bylaw amendments that are consistent with the municipality's Official Community Plan.

As required by the *Local Government Act*, staff mailed notices to tenants and owners of properties located within 100m [328ft] of the subject property on June 22, 2020 [Appendix G]. Notice of

Waived Public Hearing was printed in the June 25th and July 2nd editions of the Victoria News and the sign indicating the property is under consideration for a change in zoning that has been installed on the Tillicum Road frontage since May, 2019, was updated to indicate the Public Hearing was waived and Council would be considering 3rd reading of Bylaw No. 2994 on July 6, 2020. As a result of this notification one letter of support was received by staff [Appendix H].

ALTERNATIVES:

1. Council reads Amendment Bylaw No. 2994 a third time and directs staff and legal counsel to coordinate with the property owner to register a S.219 covenant prior to returning Bylaw No. 2994 for consideration of adoption.
2. Council postpone consideration of Bylaw No. 2994 pending receipt of additional information.
3. Council defeats Amendment Bylaw No. 2994.