



# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

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

## Legislation Text

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File #: 20-330, Version: 1

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### REQUEST FOR DECISION

**DATE:** June 29, 2020

Report No. DEV-20-036

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

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

**SUBJECT:**

Rezoning Application - 876 Dunsmuir Road

**RECOMMENDATION:**

1. That Council resolves that Bylaw No. 3000, attached as Appendix A to Staff Report No. DEV-20-036, which would amend Zoning Bylaw, 1992, No. 2050, by changing the zoning designation of 876 Dunsmuir Road [PID 001-586-971, Lot 77, Section 11, Esquimalt District, Plan 265], shown cross-hatched on Schedule "A" of Bylaw No. 3000, from Two Family Residential [RD-1] to Comprehensive Development District No. 142 [CD. No. 142], be given first and second 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-20-036, the applicant has voluntarily agreed to register a Section 219 Covenant on the title of 876 Dunsmuir Road [PID 001-586-971, Lot 77, Section 11, Esquimalt District, Plan 265] 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 number of dwelling units in the new development will remain at no more than four [4] units, as stated in Bylaw No. 3000,
  - One (1) visitor parking space will be provided and remain as illustrated in the Site Plan, attached in Appendix D of Staff Report DEV-20-036,
  - Provision of a BC Transit pass to a designated resident of each of the four townhomes for a period not less than one year,
  - Installation of a Level 2 electric vehicle charging station in each of the four [4] and at the one [1] visitor parking space,
  - One bicycle locker will be provided for each unit and will include a minimum of one electrical outlet, 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. 3000 to Council for consideration of adoption].

3. That Council waive the Public Hearing pursuant to Local Government Act, Section 464(2) for Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 3000, attached as Appendix A to Staff Report No. DEV-20-036 and direct staff to proceed with appropriate public notification and return the bylaw to Council for consideration of third reading.

## **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:**

This Request for Decision supports the following specific strategic objective:

Healthy, Livable and Diverse Community - Support community growth, housing, and development consistent with our Official Community Plan (OCP).

## **BACKGROUND:**

### **Purpose of the Application**

The applicant is requesting a change in zoning from the current zone of Two Family Residential [RD-1], to create a new Comprehensive Development District [CD-142] to accommodate four new strata townhouse residences to be constructed in one building on the subject property. The existing house has been demolished and a new building containing the four stacked townhomes, two units on the upper floors and two units comprising the first storey and basement, is proposed to replace it. Should the rezoning be approved, the form and character of the buildings and landscaping would be controlled by a development permit that would be considered by Council at a future date.

Evaluation of this application should focus on issues relevant to zoning such as the appropriateness of the proposed uses, height, density, massing, proposed unit sizes, siting, setbacks, lot coverage, useable open space, parking, how the building relates to surrounding sites, and consistency with the overall direction contained within the OCP.

## **Appendices**

Appendix A: Bylaw No. 3000 - Amendment to Zoning Bylaw 1992, No. 2050, CD-142

Appendix B: Site Plan, Air Photo, OCP Maps, Zoning Map, and CD-93 zone

Appendix C: Applicant's Narrative and Green Building Checklist

Appendix D: Architectural Plans, BCLS Site Plan and Landscape Plan

Appendix E: Watt Consulting Group - Parking Study

Appendix F: Public Open House Materials

Appendix G: Council Presentation - Staff

Appendix H: Council Presentation - Penner/Peereboom

### **Timeline**

Design Review Committee (as a Sixplex) - February 12, 2020

Advisory Planning Commission (as a Sixplex) - February 18, 2020

Esquimalt Council (as a Fourplex)- Consideration of first and second reading, July 6, 2020

### **Context**

Applicant/Owner: Jim Penner [0795531 B.C. Ltd., Inc. No. BC0795531]

Property Size: Metric: 668 m<sup>2</sup> Imperial: 7190 ft<sup>2</sup>

Existing Land Use: Vacant Land

Surrounding Land Uses:

North: Two Family Residential [RD-1]

South: Multiple Family Residential [Fourplexes] [RM-4]

West: Single Family Residential with Suite [RD-1]

East: Single Family Residential [RD-3]

Existing Zoning: Two Family Residential [RD-1]

Proposed Zoning: Comprehensive Development District [CD No. 142]

Present OCP Designation: Low Density Residential [no change required]

Proposed OCP Designation: Townhouse Residential [no change required]

### **Zoning**

In keeping with other townhouse projects, the proposed Comprehensive Development District zone would contain the following uses: Townhouse Residential and Home Occupation.

Density, Unit Size, Parcel Size, Height, Lot Coverage, Siting and Parking: The following chart compares the zoning regulations of this proposal with the requirements of the CD-93 [521 Foster Street] Zone, accommodating a four unit townhouse development:

	<b>CD-93 521 Foster Street (4 Townhouse Units)</b>	<b>Proposed CD-142 Zone 876 Dunsmuir Road (4 Townhouse Units)</b>
<b>Floor Area Ratio</b>	0.66	0.67
<b>Minimum Unit Size</b>	130 m <sup>2</sup>	110 m <sup>2</sup>
<b>Minimum Parcel Size</b>	860 m <sup>2</sup>	665 m <sup>2</sup>
<b>Building Height</b>	9.0 m	9.0 m
<b>Lot Coverage</b>	30%	40%
<b>Setbacks</b>		
• <b>Front</b>	5.5 m	6.0 m [4.8 m to raised planter]
• <b>Rear</b>	7.5 m	9.2 m
• <b>Side [Eastern]</b>	6.9 m	2.4 m [1.8 m to pillar]
• <b>Side [Western]</b>	4.5 m	3.6 m [3.0 m to pillar]
<b>Off Street Parking</b>	1.5/Unit - 6 spaces [2 Visitor]	1.25/ Unit - 5 spaces [1 Visitor]

The F.A.R. of the proposal at 0.67 is consistent with the 0.66 F.A.R. permitted in the comparable CD-93 [521 Foster Street] zone. The OCP allows for consideration of up to 0.70 F.A.R. for Townhouse Residential. This lot is located in an area designated in the OCP to accommodate townhouses.

The proposed Lot Coverage at 40% is notably higher than the maximum 30% permitted in the CD-93 [521 Foster Street] zone.

This proposal exceeds the CD-93 zone Front Setback by 0.5 metres. Staff note that the proposed 6.0 metre Front Setback would position the building in a manner only modestly inconsistent with other buildings on this section of Dunsmuir Road where many adjacent buildings are setback 7.5 metres or more from the Dunsmuir Road Front Lot Line. Proposed side setbacks are notably reduced from the CD-93 zone standard in this proposal, in part due to the absence of the wide maneuvering aisle required to access parking under the building at 521 Foster Street. Rear setback for the proposed building exceeds the comparable CD-93 zone primarily to accommodate all the required parking for the building but also offering a landscape buffer on the north edge of the parcel.

The 'Useable Open Space', as defined in the Zoning Bylaw, excludes areas used for front yards and parking, and areas with any dimension less than 6.0 metres. This proposal's provision of front yard and roof top patios does not meet the 7.0% Useable Open Space requirement contained in the CD-93 zone however these spaces are available to individual units as desirable outdoor areas.

### Parking and Maneuvering

The proposal provides for five parking spaces for four dwelling units located at the rear of the lot. Four spaces would be assigned to individual units while the remaining full size parking space would be assigned and identified as a visitor parking space. The applicant has committed to installing Level 2 electric vehicle charging stations at every parking space. The visitor space, located at the end of the access driveway, may also be used to temporarily accommodate small moving or delivery vans serving the four units. The applicant has provided a parking assessment completed by Watt Consulting Group [Appendix E].

There is regular bus service in the vicinity with BC Transit route #15 on Esquimalt Road, and with route #25 passing on Dunsmuir Road. Car share vehicles in the vicinity of the site should residents choose to secure memberships and the applicant has committed to provide transit passes, through the BC Transit EcoPass Program, for one year for each of the four units for use by designated residents.

This location is close to the Esquimalt Road which has bike lanes marked on the roadway. Individual secure bicycle lockers for residents are proposed to be located abutting the parking area at the rear of the building, which will offer easy access and security for bicycles. The applicant has committed to ensure that sufficient electrical outlets are installed in the bike room to allow for electric charging of bicycles if needed.

### **Official Community Plan**

This proposal complies with the 'Townhouse Residential' "Proposed Land Use Designation" (OCP Schedule B) [see Appendix B].

The OCP 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.

#### 11.4 Public Transit

OBJECTIVE: To encourage transit oriented development that takes advantage of the transit system and increases the use of the transit system.

- Policy - Support densification along frequent and regional transit routes. It should be noted the subject property is located on a local transit route but is in close proximity to frequent and regional routes.

#### 13.3.6 Passenger Vehicle Alternatives

OBJECTIVE: To reduce impact of motor vehicles that derive energy from fossil fuels by increasing capacity for alternative fueling and sharing.

- Policy - Pursue the installation of electric vehicle charging capacity in new developments during the rezoning process.

#### Development Permit Guidelines

Should this application for rezoning be approved by Council approval of a Development Permit (DP) will be required prior to a building permit being issued. Accordingly, applicants are urged to consider the DP guidelines early in the process. Many DPA guidelines require that the zoning issues (useable open space, lot coverage, height, density, massing, siting, setbacks, parking, how the building relates to adjacent homes) and natural area / tree protection be considered in order to be able to fulfill the guidelines for a development site.

OCP Section 23, DPA No.6: 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.
5. Surface parking areas in developments less than five storeys in height, will be situated away from the street and screened by berms, landscaping or solid fencing or a combination of these three.
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.

This parcel is also located within OCP Section 28, DPA No.11: West Bay Development Permit Area and is therefore subject to the design guidelines contained therein.

#### 28.5 Guidelines - Residential Buildings

1. Site and orient multi-plex, townhouse and apartment buildings to overlook public streets, parks, walkways and communal spaces, while ensuring the security and privacy of residents.
2. Incorporate individual entrances to ground floor units in residential buildings that are accessible from the fronting street. This provides easy pedestrian connections to buildings, encourages street activity and walking, and enhances safety.
3. Residential entries should be clearly visible and identifiable from the fronting public street to make the project more approachable and create a sense of association amongst neighbours.
4. Emphasize front doors by incorporating a front patio or stoop and orienting front entryways prominently towards public streets and open spaces.
5. Incorporation of a semi-elevated front entry way (1 m - 1.5 m) is encouraged to create a semi-private entry or transition zone to individual ground floor units. For these units, ensure an alternate access point that is accessible by wheelchair.
6. Locate off-street surface parking behind or underneath buildings. Off-street surface parking located between the front of the building and the public sidewalk or adjacent to other public open spaces is strongly discouraged and should be avoided. When parking is accessed from the fronting public street, recess parking garages and entrances from the front face of buildings.
7. A landscaped transition zone in between the entryway and public sidewalk should be considered on streets with high traffic volumes.

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, and Development Permit Area No. 8 - Water Conservation. Many of the DP area 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 building.

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:

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:

2. In residential locations plan for 'nature out front'; for new landscaping in front and exterior side yards use a variety of site-appropriate, native species; thereby contributing positively to pedestrian friendly urban streets, future greenways and habitat enhanced corridors.
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.
2. Reduce the impact of surges in stormwater on shorelines by designing on-site stormwater retention systems to contain the first 3 centimetres [1.25 inches] of precipitation on site, per precipitation event; and incorporating rainwater collection systems into roof design and landscaping.
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 maneuvering of private motor vehicles.
3. Conserve native trees, shrubs and soils, thereby saving the cost of importing materials and preserving already sequestered carbon dioxide.

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:

4. Incorporate rain gardens into landscaping and direct rainwater toward 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.
3. Avoid disturbing, compacting and removing areas of natural soil, as these are naturally absorbent areas.

#### **Comments from Other Departments**

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

Building Inspection: No concerns. Construct 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 has completed a preliminary review of the proposed development at 876 Dunsmuir Road. The developer should be aware that they may be required to provide Works and Services up to the road centre line. At a minimum new curb, gutter and along the frontage of the proposed development maybe required. The development is to have sewer, drain, catch basin and water service connections, as well as underground hydro, telephone, and cable. Additional review and comments will be provided upon receipt of detailed engineering drawings. All proposed Works and Services shall be as per Bylaw, 1997, No. 2175. The applicant is responsible for retaining the services of qualified professional for the design and construction supervision of all Works and Services, including construction costs, engineering fees, administrative fees and as indicated in Bylaw No. 2175.

Fire Services: Sprinklers will be required for this building as per Building Regulation Bylaw 2017, No. 2899.

Parks Services: Tree protection must be erected as needed in an effort to protect the trees located on the neighbouring properties.

### **Recommendation from the Design Review Committee [DRC]**

This application was considered at the regular meeting of the DRC held on February 12, 2020. The DRC made the following motion:

*“The DRC recommends to Council that Design Review Committee recommends that Council deny the application on the basis that it exceeds the RM-3 zoning based on the large amount of lot coverage, setbacks, and parking.”*

### **Recommendation from the Advisory Planning Commission [APC]**

This application was considered at the regular meeting of the APC held on February 18, 2020. The APC made the following motion:

*“That the application for a rezoning, authorizing six (6) townhouse dwelling units as sited on the survey plan prepared by J.E. Anderson and Associates, stamped “Received December 9, 2019” and incorporating the height and massing consistent with the architectural plans provided by Victoria Design Group, stamped “Received December 9, 2019”, detailing the development proposed to be located at 876 Dunsmuir Road [PID 001-586-971, Lot 77, Section 11, Esquimalt District, Plan 265], be forwarded to Council with a recommendation by the Esquimalt Advisory Planning Commission of denial as the proposal is over development of a small lot.”*

In response to the feedback from both the DRC and APC the applicant substantially revised the proposal by reducing the number of units to four through interior stair connection of the basement and main floor units while maintaining the two upper floor units. Additional changes included revision of the parking area design to 5 spaces, increase of the front setback creating an amenity area for each of the larger lower units and an overall increase to the amount of permeable surfaces across the site to not less than 25% of the parcel.

## **ISSUES:**

### **1. Rationale for Selected Option**

This proposal complies with the ‘Townhouse Residential’ ‘Proposed Land Use Designation’ (OCP Schedule B) and is consistent with the policy direction contained within the OCP for townhouse development.

Notwithstanding the DRC and the APC both withheld support for the original development approach, it is the opinion of staff that the applicant has adequately addressed the concerns identified by committee and commission members regarding a lack of permeability, perception of overbuilding the site and a poor fit with the setbacks prevalent on the street.

The proposed development would add ‘missing middle’ family oriented housing to Esquimalt, close to transit services and parks and would improve housing choice in the area, while encouraging owners and residents to choose alternative, lower carbon transportation solutions.

### **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

Increasing residential density in existing neighbourhoods is believed to make a community more sustainable. The applicant has proposed providing BC Transit passes for each unit, installing electric vehicle charging stations at all five parking spaces and providing private and secure lockups for bicycles, all of which serves to encourage alternative transportation. The applicant has completed the Green Building Checklist [Appendix C].

5. Communication & Engagement

Public Notification

As this is a rezoning application, regardless of whether the Public Hearing is waived or Council forwards the bylaw to a Public Hearing, a notice would be mailed to tenants and owners of properties within 100m (328 ft) of the subject property. A sign indicating that the property is under consideration for a change in zoning has been placed on the Dunsmuir Road frontage of the property and would be updated to reflect the date, time and location of the Public Hearing or when Council will consider the bylaw for third reading. Additionally, regardless of whether the Public Hearing is waived or Council forwards the bylaw to a Public Hearing, notice would be placed in two editions of the Victoria News.

Applicant neighbourhood meeting submission

The applicant held a neighbourhood meeting (open house) and met with neighbours on February 13, 2020 in order to comply with the public consultation procedures of Development Application Procedures and Fees Bylaw, 2012, No. 2791 [Appendix F]. It should be noted that the proposal at the time of the neighbourhood meeting was for a six unit stacked townhouse proposal that has subsequently been reduced to four units with notable increases to permeable surfaces and green space, an increased front setback and a reduction of parking spaces.

**ALTERNATIVES:**

1. That Council give Bylaw No. 3000 first and second readings, directs staff and legal counsel to coordinate with the property owner to register a S.219 covenant prior to returning Bylaw No. 3000 for consideration of adoption and that Council waive the Public Hearing and direct staff to proceed with appropriate public notification prior to returning Bylaw No. 3000 to Council for consideration of third reading.
2. That Council give Bylaw No. 3000 first and second readings, directs staff and legal counsel to coordinate with the property owner to register a S.219 covenant prior to returning Bylaw No. 3000 for consideration of adoption and authorize the Corporate Officer to schedule a Public Hearing.
3. Council postpone consideration of Bylaw No. 3000 pending receipt of additional information.