



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

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

Legislation Text

File #: 17-132, Version: 1

REQUEST FOR DECISION

DATE: March 21, 2017

Report No. DEV-17-020

TO: Laurie Hurst, Chief Administrative Officer

FROM: Trevor Parkes, Senior Planner

SUBJECT:

Rezoning Application, 455 Nelson Street, PID 003-378-748, Lot A, Suburban Lot 49, Esquimalt District, Plan 22014

RECOMMENDATION:

That Council resolves that Amendment Bylaw No. 2881, attached as Schedule 'A' to Staff Report DEV-17-020, which would amend Zoning Bylaw, 1992, No. 2050 by changing the zoning designation of PID 003-378-748, Lot A, Suburban Lot 49, Esquimalt District, Plan 22014 [455 Nelson Street] shown cross hatched on Schedule 'A' of Bylaw No. 2881, from RS-3 [Single Family Waterfront Residential] to CD No. 101 [Comprehensive Development District No. 101], be considered for **adoption**.

RELEVANT POLICY:

Official Community Plan Bylaw, 2006, No. 2646

Zoning Bylaw, 1992, No 2050

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:

Purpose of the Application

The applicant is requesting a change in zoning from the current RS-3 [Single Family Waterfront Residential] zone to a Comprehensive Development zone [CD] which would allow two new single family residences, each on a fee simple parcel. The existing house would be retained on the southern lot (Site B) in the short term, to be replaced at an undetermined date. A new home would be constructed on the proposed northern small lot (Site A).

This site is located within Development Permit Area No. 5 - Enhanced Design Control Residential. Should the rezoning application be approved, the applicant would need to complete a subdivision and then obtain a Development Permit respecting the character of the development, including landscaping, and the siting, form, exterior design and finish of the single unit infill house proposed for Site A, which would be considered by both the Advisory Planning Commission and Council at a future date. The future development of the southern lot would not be subject to a Development Permit; only a Building Permit would be required to construct the new house.

Timeline

- July 25, 2016: Application for rezoning received by Development Services.
- August 16, 2016: Application presented to Advisory Planning Commission.
- September 19, 2016: Amendment Bylaw No. 2881 prepared by staff and presented to Council for 1st and 2nd reading.
- In response to Council comments heard September 19th, staff reviewed options available to allow for a Secondary Suite on Site B of the CD-101 zone.
- October 21, 2016: Mail Notices sent to properties located within 100m of the subject property and banner installed detailing date, time and location of the Public Hearing
- October 28, 2016 and November 2, 2016 editions of the Vic News contained advertisement of the Public Hearing.
- November 7, 2016: A Public Hearing was held for Council to receive resident commentary regarding Bylaw No. 2881. Bylaw No. 2881 was subsequently presented to Council for consideration of third reading and, upon consideration of the comments made at the Public Hearing, Council read the bylaw a third time. Staff recommended adoption be withheld pending registration of a S.219 covenant restricting uses and development of the site and completion of renovations to bring the deck of the existing home into compliance with the Statutory Right of Way registered on the property title in favour of the Township.
- November 2016 - March 2017: Staff and the Township Solicitor worked with the applicant to develop an appropriate S.219 covenant that addresses tree protection, prohibits secondary suites and limits building location to mitigate tsunami risk to the site. The applicant also secured a building permit and has undertaken renovations to the existing deck, removing the trespass into the Statutory Right of Way. The Township's Senior Building and Plumbing Official has confirmed the work is proceeding consistent with the approved building plans. Finally, the applicant has provided an updated BCLS Site Plan [Schedule D] detailing the changes to the existing deck and noting that the stairs located on the north wall of the existing residence will be removed as part of the proposed subdivision, should Amendment Bylaw No. 2881 be approved.
- April 3, 2017: Amendment Bylaw No. 2881 is presented to Council for consideration of adoption.

Context

Applicant/ Owner: Ally Dewji

Property Size: Metric: 1458.2 m² Imperial: 15696 ft²

Existing Land Use: Waterfront Single Family Residence

Surrounding Land Uses:

North: Two Family Residential

South: Single Family Waterfront Residential/ Pacific Ocean

West: Two Family Residential

East: Single Family Residential

Existing Zoning: RS-3 [Single Family Waterfront Residential]

Proposed Zoning: Comprehensive Development District No. 101 [CD-101]

Existing OCP Designation: Single and Two Unit Residential [No change required]

Schedules:

“A” Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2881

“B” OCP, Zoning, Site Context information

“C” Registered Section 219 Covenant

“D” Revised Proposed Subdivision Plan detailing the renovated deck and stairs

“E” Site Plan, Architectural Drawings and BC Land Survey

Comments From Other Departments

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

Building Inspection: Plans will be reviewed for compliance with BC Building Code upon submission of a Building Permit. Staff have no concerns at this time.

Engineering Services: Engineering staff have completed a preliminary evaluation of Works and Services that would be required for the two new single family houses proposed to be located at 455 Nelson Street. 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 the requirements of Bylaw No. 2175 including, but not limited to, new water, sewer and drain connections and underground hydro, telephone and cable services. Should the application be approved, additional comments will be provided when detailed civil engineering drawings are submitted as part of a subdivision application.

Fire Services: No concerns regarding proposed development.

Parks Services: Trees to be retained on site and on adjacent site require protective fencing in advance of site preparation, de-construction and during construction. A tree cutting permit is required

for any tree removal.

Comments from the Advisory Planning Commission [APC]

This application was considered at the regular meeting of APC held on August 16, 2016.

Members commented that they liked the look of the proposed development and that two single-family homes are better than a big mansion. Members applauded the applicant for his efforts in considering the form and character of the neighbourhood as well as the Official Community Plan.

In response to a question from an APC member, the applicant confirmed that he plans to use the entire house as a family home and is prepared to enter into a covenant to restrict secondary suites.

The APC resolved that the application be forwarded to Council with **a recommendation of approval as the proposal meets the form and character of the neighbourhood and is consistent with the Official Community Plan.**

Zoning

Density, Lot Coverage, Height, Setbacks and Parking: The following chart compares the setbacks, height, lot coverage and floor area ratio of this proposal with the requirements of the RS-1 [Single Family Residential Zone]:

	RS-1 (Single Family)	Proposed CD Zone	
		Site A [North]	Site B [South]
Minimum Parcel Size	530 m ²	361 m ²	1097 m ²
Floor Area Ratio [FAR]	0.35	0.37	0.32
Maximum Lot Coverage	30%	31%	19%
Minimum Setbacks			
Front	7.5 m	5.8 m	7.0 m
Rear	7.5 m	6.3 m	6.2 m
Side	3.0 m/1.5 m	2.0 m/3.4 m	1.6 m/20.0 m
Maximum Building Height	7.3 m	7.3 m	7.3 m
Off Street Parking	1 space	1 space	1 space

Floor Area Ratio [FAR] measures buildable space in ratio to the size of the lot on which a building sits. The proposed FAR for the new home on Site A is 0.37 which exceeds the 0.35 FAR permitted in the RS-1 zone. This increase represents an additional 7 square metres [75 square feet] of livable space within the home. Staff support this increase from the RS-1 standard as it allows the applicant to offer a two bedroom and den, 2.5 bathroom home, plus a basement at a scale consistent with the surrounding homes.

The FAR proposed for Site B is 0.32 which is lower than the 0.35 FAR permitted in the RS-1 zone. Staff note that while the FAR is reduced, the large size of Site B [1097 square metres] means that the applicant would retain the right to construct a 3775 square feet home, plus a basement on this parcel.

The Lot Coverage for Site A has been written to accommodate the proposed dwelling as well as a small Accessory Building. While no Accessory Building is shown on the concept design, sheds are often added by future owners and the CD-101 zone has been designed to accommodate this potential.

The Lot Coverage for Site B is substantially lower than that allowed in the RS-1 zone and reflects the restriction of locating the building on the northern portion of the parcel, above the steep sloping bank and outside the Statutory Right of Way transecting the parcel.

Secondary Suites

At the recommendation of staff, and in an effort to improve the likelihood this application for rezoning will be approved, the property owner has volunteered to register a Section 219 covenant against the title of the existing property limiting the development to only two [2] dwelling units to ensure that neither of the proposed homes can convert space for use as secondary suites.

In response to comments made by Council members at the September 19th, 2016 regular meeting, staff investigated the possibility of restricting the secondary suite use on Site A while permitting it on Site B. To achieve this, Bylaw No. 2881 would require amendment to allow the secondary suite use on Site B and two separate Section 219 covenants would be registered on the property title with conditions tailored to Site A and Site B respectively. Upon subdivision of the property, the appropriate covenant would be registered on the appropriate parcel.

Staff communicated this information to the applicant, however, the applicant decided not to return to Council to amend Bylaw No. 2881 to allow the secondary suite use in an effort to address neighborhood concerns regarding the parking impacts an additional unit might have on the street.

The prohibition on conversion of space for use as secondary suites has been included in the Section 219 covenant registered on the property title [Schedule C].

Tree Protection

Parks staff completed a review of the original D. Clark Arboriculture report, stamped "Received November 2, 2016", and concurred with the tree protection measures proposed for the property as they relate to trees located more distant from the proposed excavation sites.

It was the opinion of Parks staff that two significant Arbutus Trees, a significant Cypress Tree, a protected Pine Tree [identified as Tag #5, #9, #11 and #15 in the report] as well as a protected Beech Tree located on the adjacent neighboring property to the north will likely decline in health and/or become destabilized if construction is permitted within the dripline of the trunks of these trees. Staff caution that the significant removal of roots within the dripline of a tree will very likely lead to severe stress, a significant decline in health, and/or result in the likelihood that all or part of a tree will fail in the future.

The applicant responded to these concerns by providing an amended Consulting Arborist Report, prepared by D. Clark Arboriculture, stamped "Received December 14, 2016" that includes recommendations regarding the protection and tree replacement of the trees located on the subject

property. Trees with a higher likelihood of failure due to impacts from construction have been identified for possible removal and replacement. This does not mean all the trees identified must be removed, rather it recognizes that future development may require their removal and replacement.

Tree protection measures, recommended by the applicant's arborist in the report stamped "Received December 14, 2016" have been included in the Section 219 covenant registered on the property title [Schedule C].

Tsunami Risk

The applicant has provided an assessment of the risk to this development posed by sea level rise and a potential tsunami. To mitigate the risk to life and property caused by a tsunami, development has been restricted by covenant prohibiting construction on the threatened portion of the site. This restriction has been included in the Section 219 covenant [Schedule C].

Official Community Plan

This proposal is consistent with the current Land Use Designation applied to the subject Property, "Single and Two Unit Residential".

Section 2.0.1(e) states the Township should encourage small scale redevelopment/ infill that improves and enhances the appearance and livability of single-unit and two-unit neighbourhoods and the community as a whole.

Section 2.0.1(g) states the Township should facilitate moderate densification in accordance with the overall objectives and statements of the Regional Growth Strategy and which will meet the municipality's anticipated housing needs for the life of this plan.

Section 2.0.2(a) states Esquimalt's Future new development, infill and redevelopment will be in accordance with the land use designations shown on Schedule A, together with the guidelines set out in Development Permit Areas (Section 9).

Section 2.2 of the Official Community Plan recognizes that modest residential growth will occur through the infilling of vacant or under-utilized parcels and states that this growth should occur in a manner that maintains and enhances individual neighbourhoods and the community as a whole.

Section 2.2.1(a) states the Township should work toward a more complete community by maintaining a healthy mixture of housing types, accommodating people with a wide range of income levels.

Section 2.2.1(b) states the Township should encourage new residential development with high design standards for building and landscaping and which enhance existing and new neighbourhoods.

Section 2.2.3(a) states that proposed subdivisions or redevelopments/infill within established single-unit and two-unit residential areas must be built to high design and landscaping standards and respond sensitively to existing neighbourhood amenities and existing significant views.

Section 9.9 of the Official Community Plan contains Guidelines for Single-Unit Infill Housing

[Schedule B]. As the Development Permit is not being considered at this time it would be inappropriate to address many of these guidelines with the following exceptions that are relevant to the discussion of zoning issues:

- Section 9.9.3.1(a) states that lots currently zoned RD-1 or RD-3, especially those with extra width or lot area are suitable for infill housing applications. The subject property is zoned RS-3, however the parcel exceeds the minimum frontage and parcel size requirements of the RD-3 zone. Notwithstanding the current zoning, it is the opinion of staff that this parcel is consistent with the direction of this policy.

Section 9.9.4.2(e) states that new structures should be designed so that the overall massing is in keeping with other single unit residences in the immediate area. As detailed on the “Proposed Streetscape” on Sheet A4 of the Inhabit Design drawing package [Schedule E], the proposed infill home, when viewed from the street, is consistent with this policy. Staff note that while the detailed design of the home proposed for the southern lot remains undetermined, the size and massing of this future building may be discordant with that of the proposed infill home as the proposed zoning would allow a building approximately 2.5 times larger than the proposed infill design.

ISSUES:

1. Rationale for Selected Option

Notwithstanding the subject property is not duplex zoned, staff are of the opinion that this application is consistent with the policy direction contained within the OCP for single unit infill development. The current RS-3 zoning permits the owner to construct a single family dwelling including a secondary suite on the subject property. Constructing a house to achieve the maximum allowable density and lot coverage on this site would likely result in a building substantially larger than existing homes in the area. This proposal for two single unit infill homes is an attempt to integrate the mass of the individual homes into the existing streetscape rather than dominating it. With the exception of a modest increase in allowable Floor Area for Site A and adjustments to setbacks to appropriately site the two proposed homes to allow useable open space for residents, this proposal is consistent with existing single family residential zoning criteria and promises enhanced building performance for long term sustainability.

Staff confirms that the applicant voluntarily executed and registered a Section 219 covenant prepared by the Township’s solicitor that addresses the direction from Council received at the November 7, 2016 meeting. Staff also confirms that encroachment of the deck of the existing home into the Township’s SRW has been removed.

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 an Esquimalt Green Building Checklist.

5. Communication & Engagement

As this is a rezoning application, notices were mailed to tenants and owners of properties located within 100 metres (328 ft) of the subject property on October 21, 2016 advising them that Council would consider the requested rezoning on November 7, 2016. Notice of the Public Hearing was printed in the October 28th and November 2th editions of the Victoria News and a sign indicating that the property is under consideration for a change in zoning, that has been in place on the Nelson Street frontage since August 2016, was updated to show the date, time and location of the Public Hearing.

The Public Hearing occurred as scheduled on November 7, 2016, after which, Council read Amendment Bylaw No. 2881 a third time.

ALTERNATIVES:

1. Council resolves that Amendment Bylaw No. 2881, attached as Schedule 'A' to Staff Report DEV-17-020, which would amend Zoning Bylaw, 1992, No. 2050 by changing the zoning designation of PID 003-378-748, Lot A, Suburban Lot 49, Esquimalt District, Plan 22014 [455 Nelson Street] shown cross hatched on Schedule 'A' of Bylaw No. 2881, from RS-3 [Single Family Waterfront Residential] to CD No. 101 [Comprehensive Development District No. 101], be considered for **adoption**.
2. Council postpones consideration of Bylaw No. 2881 pending receipt of additional information.
3. Council defeats Amendment Bylaw No. 2881.