



# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

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

## Legislation Text

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File #: 17-226, Version: 1

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### REQUEST FOR DECISION

**DATE:** June 7, 2017

Report No. DEV-17-035

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

**FROM:** Trevor Parkes, Senior Planner

**SUBJECT:**

Rezoning Application, 101 Island Highway, PID 000-025-569, Lot A, Section 2, Esquimalt District, Plan 39273

**RECOMMENDATION:**

1. That Council, upon considering the comments made at the Public Hearing, resolves that Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2893, attached to Staff Report DEV-17-035 as Schedule "A", which would amend Zoning Bylaw, 1992, No. 2050 by changing the zoning designation of PID 000-025-569, Lot A, Section 2, Esquimalt District, Plan 39273 [101 Island Highway] shown cross hatched on Schedule "A" of Amendment Bylaw No. 2893, from Tourist Commercial [C-5A] to Comprehensive Development District No. 102 [CD No. 102] and change the zoning designation from Marine Navigation [M-4] to Comprehensive Development District No. 102 [CD No. 102] of the two portions of land shown in bold outline on Plan EPP67312, being a Sketch Plan to Accompany Rezoning Application, attached as Schedule "B" of Amendment Bylaw No. 2893 [*such change resulting from Plan EPP67312 incorporating former harbour bed to the above noted property further to approval by the Surveyor General*], be considered for **third reading**; and

2. That, as the applicant wishes to assure Council the identified issues will be addressed, the applicant has voluntarily agreed to register a Section 219 Covenant and Statutory Right of Way generally consistent with the draft document, attached as Schedule 'G' to Staff Report DEV-17-035 that:

- (i) Ensures that dwelling units will be secured for use as individual rental accommodation;
- (ii) Restricts land use, building development, and reconstruction within 20 metres of the Gorge Waterway; and
- (iii) Provides for future public access across the subject property to facilitate a future trail corridor and development for public use

on the title of the Lot A, Section 2, Esquimalt District, Plan 39273 [101 Island Highway] in favour of the Township of Esquimalt prior to Amendment Bylaw No. 2893 being returned to Council for

consideration of adoption; and

3. That prior to adoption of Amendment Bylaw No. 2893, the property owner enter into a Housing Agreement pursuant to Section 483 of the *Local Government Act* in a form generally consistent with that found in Schedule 'H' of Staff Report DEV-17-035.

## **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 Tourist Commercial [C-5A] zone to Comprehensive Development District No. 102 [CD No. 102]. This zoning amendment is required to accommodate changes to the uses permitted on the property and would refine parking requirements associated with the proposed uses.

The "EconoLodge" site has a long history of providing tourist accommodations. Changes in the tourism economy have resulted in challenges to continuing the motel business model on this site. Significant demand for affordable rental units exists and is expected to continue due to critically low vacancy rates across the region. To maintain the vitality of this site and to meet market demand, the new owners are proposing to convert the existing buildings to residential units while maintaining commercial uses on the site ensuring consistency with the OCP Land Use Designation. The applicant's proposal includes retaining a 145 square metre restaurant/coffee shop on the site, to be run by an independent operator, retaining a modest 59 square metre office space for on-site management of the building and reducing the total accommodations on the site to 96 units.

In an effort to anticipate possible alternative uses that might be appropriate on this site, staff have included Retail Store and Fitness Centre as permitted uses that, similar to the other permitted commercial uses, excepting Tourist Commercial, would be restricted to operation within the West Block. To achieve maximum flexibility for the site, the applicant has requested that Tourist Accommodation also be included as a permitted use ensuring the option to offer short term accommodation to the traveling public remains possible. While staff support the diversification of commercial uses on the site to ensure vitality at this prominent location, prudence dictates that

Tourist Accommodation use and residential uses be physically separated to avoid unnecessary conflicts. For this reason, the Tourist Accommodation use has been restricted to no more than two entire “blocks” at the same time. This limitation ensures that, based on the proposed floor plans, not less than 51 dwelling units will remain as market rental dwelling units at all times and that conflicts that might arise if unsympathetic uses were abutting each other are avoided.

Should the rezoning application be approved, the form of the buildings would remain fundamentally unchanged, however, the character would be noticeably altered through notable changes to paint and exterior cladding of the buildings. This change of use and associated renovations constitute “redevelopment” on the site therefore approval of a Development Permit for form and character as well as for enhancement/ rehabilitation of the foreshore area would be required.

### **Timeline**

- November 23, 2016: Application for rezoning received by Development Services.
- December 20, 2016: Application presented to Advisory Planning Commission.
- May 15, 2017: Amendment Bylaw No. 2893 prepared by staff and presented to Council for 1st and 2nd reading.
- May 15, 2017: Council read Bylaw No. 2893 a first and second time.
- June 8, 2017: Special Council Meeting - Housing Agreement Bylaw No. 2897 is scheduled to be presented to Council for consideration of first, second and third reading.
- June 12, 2017: Regular Council Meeting - Public Hearing for Amendment Bylaw No. 2893.

### **Context**

**Applicant/Owner:** Jordon Milne [The Gorge Apartments Limited Partnership]

**Architect:** Hillel Architecture Inc. [Peter Hardcastle]

**Property Size:** Metric: 10845 m<sup>2</sup> Imperial: 116,735 ft<sup>2</sup>

**Existing Land Use:** Tourist Commercial [Motel]

#### **Surrounding Land Uses:**

North: Gorge Waterway  
South: Townhouse Residential  
West: Institutional [Craigflower Farm]  
East: Single Family Residential

**Existing Zoning:** C-5A [Tourist Commercial]

**Proposed Zoning:** CD-102 [Comprehensive Development District No. 102]

**Existing OCP Designation:** Commercial Mixed-Use [No change required]

#### **Schedules:**

“A” Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2893;  
“B” Site Airphoto, C-5A Zone and Green Building Checklist;

- “C” Developer Narrative;
- “D” Architect Narrative;
- “E” Public Comments;
- “F” Parking Study and Tsunami Report;
- “G” Draft Public Trail SRW and S.219 Covenant;
- “H” Draft Housing Agreement;
- “I” Public Hearing Mail Notice; and
- “J” Architectural Drawings, Concept Colour Board and BC Land Survey Site Plan and Sketch Plan.

### **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:** Construction must satisfy BC Building Code and Esquimalt’s Building Code Bylaw, 2002, No. 2538 requirements. Detailed review of plans will occur at time of Building Permit application.

**Parks Services:** Parks staff completed preliminary review and indicated that tree protection should be put in place around protected trees during renovation construction.

**Fire Services:** Fire Services staff completed a preliminary review of the proposed plans and noted that the applicant should consider issues relating to fire separation, fire alarms and fire safety plans for all the buildings on the site. Staff also recommend the applicant consider installation of a fire hydrant adjacent to the vehicle entrance off Craigflower Road to improve fire response time to this site. Additional comments may be provided as part of the consideration of the Building Permit should Council approve this rezoning application.

**Engineering Services:** Engineering staff have completed a preliminary evaluation of Works and Services that would be required to accommodate the conversion of the motel located at 101 Island Hwy to one commercial unit and 96 rental apartments. Staff have no concerns at this time regarding existing services.

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

This application was considered at the regular meeting of APC held on December 20, 2016. The applicant, Jordan Milne and his architect, Peter Hardcastle, representing Hillel Architecture, presented a review of the proposed changes, including a change of use to offer 96 market rental dwelling units and the retention of the existing restaurant use to be run by an independent operator. Members commented that the restaurant was an excellent amenity to the site. Members sought and received confirmation that the applicant does not intend to use the site for short term rental, only long term accommodation, and that there is no plan to stratify the property. Members raised concern regarding the lack of a children’s play area on the site stating that such an amenity would be desirable. Members commented that the rehabilitation of the site is desirable and the proposed uses are appropriate.

The APC moved that the application be forwarded to Council with a recommendation **for approval**

as the proposal provides the benefits of rehabilitating the buildings for rental use as opposed to a motel. The Motion carried.

## Zoning

**Density, Lot Coverage, Height, Setbacks and Parking:** The following chart details the zoning criteria applied to this proposal as Zoning Bylaw, 1992, No. 2050 does not contain a zone that could accommodate this commercial mixed-use proposal:

	<b>Comprehensive Development District No. 102 [CD-102]</b> (Mixed Commercial Residential Use)
<b>Floor Area Ratio [Bonus Density]</b>	0.46
<b>Unit Size</b>	30 square metres [minimum]
<b>Commercial Floor Area</b>	205 square metres [minimum]
<b>Building Height</b>	9.0 m
<b>Lot Coverage [Bonus Density]</b>	41%
<b>Setbacks:</b>	
<b>Front Lot Lines [Island Hwy]</b>	5.5 m
<b>Southeast Lot Lines</b>	11.5 m
<b>Exterior Side Lot Lines [Craigflower Rd]</b>	4.0 m
<b>Waterfront</b>	<b>20.0 m</b> [consistent with OCP policy]
<b>Off Street Parking</b>	111 spaces [less than Parking Bylaw requirements but greater than Parking Study stated demand for site of 100 spaces]

**Base Density:** Bylaw No. 2893 is structured as a “Density Bonus” bylaw. This format ensures the site is viable and consistent with the OCP at the base density while offering a lift in density to the applicant in the event certain conditions deemed desirable by the Township and defined within the structure of the bylaw are met.

Adaptive redevelopment at the Base Density is supported as regulations are structured to offer the entire West Block of the site as commercial space including, if desired by the applicant, offering the 13 proposed dwelling units as Tourist Accommodation units, 27% of units permitted on the site, or adapting the space to accommodate office, retail, fitness or restaurant uses. It is desirable to focus commercial activity within one block abutting the busy frontage of Island Highway as the different uses would support one another and the residential uses would be insulated from the commercial activity on the west end of the site.

Assuming the West Block is entirely dedicated to commercial uses permitted in the zone, the remaining buildings would offer the opportunity to create a mix of unit types up to 35 dwelling units. Given the available habitable space in the Centre, East and South Blocks some of these units could be large in size serving families thereby addressing a pressing need within the rental market.

By limiting Lot Coverage to 35% of the site, and allowing a maximum of one Two Family Dwelling to be occupied, it requires the applicant to consider the removal of the majority of the two family dwellings and the subsequent rehabilitation of the foreshore consistent with OCP policies.

**Bonus Density:** Bylaw No. 2893 offers the applicant the opportunity to access bonus density, increased number of units and increased lot coverage if certain conditions are met as outlined in the bylaw.

Development of the site at the bonus density is consistent with the applicant's proposed redevelopment of the site including commercial space dedicated to office and restaurant uses in the West Block, abutting Island Highway. In addition, the bonus density offers the possibility to see up to 45 units used as Tourist Accommodation, enhancing the volume and diversity of commercial uses on the site.

Bonus density offers an increase to 96 dwelling units spread across the site which ensures that not less than 51 units will be occupied as rental residences at any given time. Also allowed is the use of all 10 units located within the Two Family Dwellings sited adjacent to the waterfront in recognition of the viability of these units in the near term without sanctioning their presence on the site in perpetuity.

These bonuses are offered in exchange for securing legal public access via a required Statutory Right of Way [SRW] to lands located within 20 metres of the Gorge Waterway for the purposes of passive recreation and a public trail consistent with OCP Policies. The required Section 219 Covenant [S.219] would restrict use, building development and reconstruction within 20 metres of the Gorge Waterway and prohibit stratification or subdivision of the site, thereby ensuring units remain rental housing for the life of the development. A draft version of the SRW and S.219, prepared by staff and the Township Solicitor is attached as Schedule G to Staff Report DEV-17-035 for reference.

The required Housing Agreement would require units to be offered as market rental units, not subsidized rental housing, and would prevent the institutionalization of the site by restricting the leasing of a group of units to a maximum of 10 units. A draft version of the Housing Agreement, prepared by staff and the Township Solicitor and agreed to by the applicant is attached as Schedule H to Staff Report DEV-17-035 for reference.

**Parking:** The applicant proposes to provide less parking than the minimum required for this project by Parking Bylaw No. 2011. Staff remain supportive of the proposed provision of not less than 111 parking spaces as it exceeds the expected parking demand by 11 spaces. This expected demand is based on the analysis provided in a Parking Study, undertaken by Watt Consulting Group, stamped "Received November 23, 2016" [Schedule F] that recommends Residential Parking for this site be relaxed to 0.90 spaces per dwelling unit including 0.10 spaces per dwelling unit for visitor parking. This recommended parking provision results in a need for a total of 87 parking spaces including 10 visitor spaces. Commercial parking would be provided consistent with Parking Bylaw requirements.

**Height:** The applicant proposes to renovate the existing buildings, the tallest of which is 6.1 metres in height. Staff have agreed to assign a maximum height of 9.0 metres to accommodate the possible addition of floor space on top of the existing buildings to replace rental units should any or all of the non-conforming Two Family Dwellings be removed from the site.

**Setbacks:** Setbacks outlined in Bylaw No. 2893 accommodate the existing buildings with the

exception of making the north portion of the West Bock and all of the Two Family Dwellings non-conforming to the Waterfront Setback of 20.0 metres. This approach is necessary as the Township OCP provides direction that virtually all buildings should be prohibited within 20.0 metres of the Gorge Waterway.

**Permitted Uses:** 101 Island Highway is identified as a Commercial Mixed-Use site in the Official Community Plan, therefore it is appropriate to consider an application that proposes a mix of office, restaurant, and residential uses while retaining the possibility to offer Tourist Accommodation uses to the travelling public on a limited basis. Permitted Uses in Comprehensive Development District No. 102 are limited to the following:

- a) Business and Professional Office
- b) Dwelling - Multiple Family
- c) Dwelling - Two Family
- d) Fitness Centre
- e) Home Occupation
- f) Retail Store
- g) Restaurant
- h) Tourist Accommodation

### **Official Community Plan**

The Township Official Community Plan contains policies intended to guide Council in decision making around proposed developments in the community including changes in use.

This proposal to adapt the existing buildings at 101 Island Highway to allow residential use of the site while preserving a modest amount of desirable commercial space and providing opportunity for built space to change from residential to commercial use is consistent with OCP Section 2.3.2 - General Commercial Mixed-Use Policies.

The proposed renovation and conversion of motel units to a mix of studio, one-bedroom and two-bedroom dwelling units and their delivery to the open market as rental accommodation is consistent with OCP Section 3.3.1/ 3.3.2 Affordable housing Objectives and Policies.

Staff have crafted Bylaw No. 2893 as a “Density Bonus” bylaw, in part, to encourage the applicant to provide the Township with legal access rights over lands abutting the Gorge Waterway consistent with OCP Section 6.1.2.2.

Similarly, securing legal rights of access to the waterfront is consistent with OCP Policy 7.1.1 and 7.1.2 relating to passive recreational uses and environmental rehabilitation of these lands.

### **ISSUES:**

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

This application is consistent with the Land Use Designation assigned to the subject property and the policy direction contained within the OCP for Commercial Mixed-Use development. The APC has recommended support of this application, complimenting the applicant on the creative adaptation of existing buildings on the parcel to meet a pressing need while also offering the

community a desirable commercial destination.

Amendment Bylaw No. 2893 is structured to be consistent with current OCP policies directing that public access along the Gorge Waterway should be secured while respecting the reasonable lifespan of the existing non-conforming West Block and five Two Family Dwellings. This bylaw would ensure dwelling units would be delivered to the open market, avoiding unintended institutionalization of the site through mass leasing to corporations or governmental agencies and preventing units to be operated as subsidized housing. This proposed adaptive re-use of the existing buildings at 101 Island Highway is desirable as it would provide much needed market rental units at a time of historically low vacancy rates in Greater Victoria while revitalizing this prominent corner of Esquimalt.

2. Organizational Implications

This Request for Decision has no organizational implications.

3. Financial Implications

The proposed rezoning may have certain property tax implications. A detailed financial analysis has not been completed.

4. Sustainability & Environmental Implications

The applicant has completed an Esquimalt Green Building Checklist [Schedule B]. This proposal represents the adaptive reuse of the existing buildings and secures public access to the Gorge Waterway in the future and this proposal includes 146 bicycle lockups, consistent with OCP policy, and dedicated motorcycle and scooter parking spaces. The site is located at the intersection of two major roads with excellent access to transit services and is near a variety of retail shops and services encouraging walking and cycling.

5. Communication & Engagement

As required by the Township's Development Application Procedures and Fees Bylaw, 2012, No. 2791, the applicant delivered notices to properties located within 100 m of the subject property soliciting comments and inviting residents to attend a Public Open House to hear about the proposal, review the drawings, and provide comments. This meeting was held from 7pm to 9pm on Wednesday, December 21, 2016 in the restaurant space at 101 Island Highway. Staff confirm the applicant has provided the required submissions indicating that five persons attended the meeting and all feedback regarding the proposed changes was favourable.

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 May 29, 2017 [Schedule I].. Notice of the Public Hearing was printed in the June 2, 2017 and June 7, 2017 editions of the Victoria News and five signs indicating that the property is under consideration for a change in zoning that have been in place on the Island Highway and Craigflower Road frontages since December 2016 were updated to show the date, time and location of the Public Hearing.

To date, staff have received phone inquiries, three items of correspondence from local residents, and a letter of support from Landlord BC, all supporting this proposal [Schedule E].

**ALTERNATIVES:**



1. (1) That Council resolves that Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2893, attached to Staff Report DEV-17-026 as Schedule "A", which would amend Zoning Bylaw, 1992, No. 2050 by changing the zoning designation of PID 000-025-569, Lot A, Section 2, Esquimalt District, Plan 39273 [101 Island Highway] shown cross hatched on Schedule "A" of Amendment Bylaw No. 2893, from Tourist Commercial [C-5A] to Comprehensive Development District No. 102 [CD No. 102] and change the zoning designation from Marine Navigation [M-4] to Comprehensive Development District No. 102 [CD No. 102] of the two portions of land shown in bold outline on Plan EPP67312, being a Sketch Plan to Accompany Rezoning Application, attached as Schedule "B" of Amendment Bylaw No. 2893 [*such change resulting from Plan EPP67312 incorporating former harbour bed to the above noted property further to approval by the Surveyor General*], be considered for **third reading**; and  
  
(2) That, as the applicant wishes to assure Council that dwelling units will be secured for use as individual rental accommodation, that use, building development and reconstruction within 20 metres of the Gorge Waterway will be restricted and that future public access across the subject property will be provided to facilitate a future trail corridor and development for public use, the applicant has voluntarily agreed to register a Section 219 covenant and statutory right of way on the title of the 101 Island Highway in favour of the Township of Esquimalt, Council direct staff to coordinate with the property owner to ensure a Section 219 covenant and statutory right of way, generally consistent with the draft document, attached as Schedule 'G' to Staff Report DEV-17-035, addressing the aforementioned issues is registered against the property title prior to returning Amendment Bylaw No. 2893 to Council for consideration of adoption; and  
  
(3) That prior to adoption of Amendment Bylaw No. 2893, the property owner enter into a Housing Agreement pursuant to Section 483 of the *Local Government Act* in a form consistent with that found in Schedule 'H' of Staff Report DEV-17-035.
2. Council postpone consideration of Bylaw No. 2893 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 Bylaw No.2893.