



Mayor Helps and Council  
City of Victoria  
No.1 Centennial Square  
Victoria, BC  
V8W 1P6

November 22, 2018

**Re: 1025-1031 Johnson St. and 1050 Yates St – New Fire Hall - Rezoning and OCP Amendment**

Dear Mayor Helps and Council,

The DRA LUC hosted a CALUC meeting on 31 July 2018 for the above-mentioned application. 93 members of the public attended the meeting. Correspondence has also been received from the public regarding this application.

Based on the information presented by the applicant, the purpose of this application is to rezone a total of 7200m<sup>2</sup> of lands bounded by Johnson, Cook and Yates Streets to allow a mixed use development of 12 to 17 storey buildings with a proposed overall density of 6.8:1. As the proposed density exceeds the OCP designation for the local area of 5.5:1, an amendment to the OCP is also required. The first phase of the proposed development covers approximately 30% of the site and includes facilities for a new municipal Fire Hall with emergency bays and above those, office space and an affordable housing component administered by Pacifica Housing.

The site is currently split zoned with 43% of the site zoned R-48 and the balance zoned S-1. The applicant presented an argument that a theoretical zoning entitlement existed for the R-48 lands for a density of 8.8:1 and that due to the structural constraints of the Fire Hall any unrealizable density on the R-48 portion of the property would be transferred to the S-1 lands and be applied in addition to the maximum OCP designation of 5.5:1 creating an average for the entire site of 6.8:1.

The DRA has obtained through an FOI request a heavily redacted copy of the contract between the applicant and the City of Victoria for the construction of the fire hall. This contract shows that Council has agreed prior to any public engagement to terms that require rezoning approval to include the densities in significant excess of the OCP maximums for properties outside the scope of the actual fire hall building.

**Comments and concerns expressed at the public meeting include:**

- Several concerns were expressed regarding providing institutional uses allowable under the proposed zoning; including Homeless Shelters, Shooting Galleries, Needle Exchanges, Drug and Alcohol Treatment or prisons. It was questioned why an institutional use will be applied to the entire site. Guarantees were requested that rezoning for institutional uses be restricted to only

the Fire Hall portion of the site. The applicant represented that in order to accommodate the Fire Hall the entire site had to be rezoned to include institutional use.

- There were concerns expressed by a great many attendees regarding the impacts on livability caused by the excessive construction noise that will be produced by this site over a period of many years (and other sites in Harris Green) and the continuing disregard of the Noise Bylaw by contractors and lack of response by Bylaw Enforcement or adequate penalties to dissuade such activities.
- The potential for noise from the emergency vehicles themselves and why the Fire Hall would be located in the most densely populated neighbourhood of the City were also common concerns.
- The lack of open or green space was a recurring concern mentioned by several attendees with general consensus from the room. The excess density, the massive nature of the proposed zero-setback streetwall and the apparent lack of planning or commitment for the future phases were common themes.
- There have been no amenities provided to the Harris Green neighbourhood with the massive amount of development approved to date and there appears to be little amenity value provided by this development apart from the possibility of including a pocket park somewhere within the 7200m<sup>2</sup> property.
- Concerns expressed regarding the height of the proposed building and the blockage of light by the proposal on adjacent existing buildings. The applicant did not provide a shadow study at the CALUC meeting.
- It was confirmed by Planning Staff that the transfer of theoretical density entitlements from an R-48 zone to another separate parcel was unprecedented.
- Concerns were expressed whether it was appropriate to house children above a Fire Hall.
- Midblock crosswalks have caused serious problems with antisocial behaviour and public safety with no support from the police. There were concerns how a midblock walkway would be designed and managed on this site.
- There were concerns expressed regarding the Planning Department entertaining a theoretical density for the R-48 lands calculated at 8.8:1 when there is no built example of this being achieved over FSR 5:1 within the 10 storey limit of that zone.

A more comprehensive record of comments raised by the public at the CALUC meeting is included in the attached Minutes. While members of the public expressed appreciation for the services that Pacifica Housing provides to the city, no member of the public spoke out in favour of the proposal at the public meeting. Two emails were received by the DRA after the CALUC meeting from members of the business community expressing support for the proposal.

#### **Review and response to the application by Land Use Committee Members:**

- **Was Council aware of the Contract Requirements for excessive density?** Council has entered into a contract for the Fire Hall that included, as part of the contract, Council approval of density entitlements significantly in excess of the current OCP maximums on lands that have no direct association or need for approval concurrently with the Fire Hall site. This Council decision was made in camera and calls into question whether Council was aware of all the facts at the time. The applicant has continually resisted any attempt to sequester the Fire Hall site from the rest of the application and Council appears now bound by the terms of the contract which includes approval of this rezoning for the entirety of the 7200m<sup>2</sup> lands. This is cause for significant concern.
- **R-48 Zone-“Theoretical Density”.** The R-48 Zone was originally created as a City-led initiative to incentivize downtown residential development in the 1990s which gifted extremely generous entitlements for density to all parking lot owners in Harris Green at the time. This has since become a windfall for the property owners who contributed nothing to the community in exchange. The R-48 Zone was poorly written and recent changes to the DCAP height guidelines has been exploited by applicants by promoting the concept of “theoretical density entitlement calculations” under “as-of-right” Development Permit with Variance applications. This simple

process then allows buildings to be constructed that far exceed the original intent of the bylaw and the density limits currently set by the OCP as-of-right. In this case, the applicant has calculated an extraordinary “theoretical density entitlement” of 8.8:1 on its R-48 zoned portion of the property and approval by Council of this unchallenged density calculation forms non-negotiable terms of the contract for the Fire Hall. A historical inventory conducted by the DRA of built examples of R-48 properties clearly shows that no buildings have been constructed at densities over 5:1 when the 10 storey height limit in the bylaw was respected. Consideration by staff and Council of these “theoretical” densities makes a mockery of the OCP and the R-48 bylaws original intent.

- **No Legal Right to Transfer Density Entitlements to a different property.** Regardless of the argument of the amount of density the applicant perceives they are entitled to, it is a fact that the density entitlement for the R-48 lands applies only to the property that carries that zoning and is not legally “transferable”. While Council may have the discretion to allow this density transfer to take place, it will be unprecedented and we suggest that it would be highly inappropriate to do so.
- **Rezoning the entire site vs Fire Hall alone.** The applicant stated at the public meeting that the entire site has to be rezoned as one because the lands contain many parcels and a portion of the Fire Hall straddles the existing parcel and zoning boundaries and so the institutional use would be required to cover the entire site. This is simply not true, as nothing prohibits the Fire Hall site and the corresponding institutional use be rezoned in isolation. The only purpose for rezoning the entire site is to facilitate the transfer of unsubstantiated density rights from the Fire Hall site to a completely separate property that currently has no such rights.
- **R-48 Change of use precludes existing zoning entitlements.** The applicant is seeking a different use for this project and is rezoning to a different zone from R-48. The applicant has no legal “right” to carry forward density entitlements permitted by the current R-48 zone when it aspires to add an additional use necessitating a rezoning. DCAP also reiterates the reality of “use it or lose it” in section 4.17 stating that this property will now be subject to provisions of the density bonus system “as the property owner seeks to rezone the property to a different zone”.
- **Density inappropriate for the Local Area.** In terms of scale, the application is 36% more dense (larger) than 1515 Douglas Street (at FSR 5:1) located right across from City Hall or the Hudson District (FSR 5.1:1). The proposed density of 6.8:1 across the site is also misleading. Due to the post-disaster restrictions on the Fire Hall, the remaining two thirds of the site fronting Cook and Yates Street will actually be built to a density of approximately 7.3:1; which is very unlikely to be achieved within the 15 and 17 storey heights referenced. Other sites of this density such as “Yates on Yates” or the “Hudson Place 1” required heights in excess of 20 stories to achieve these densities.
- **Pre-zoning in advance of a Complete Design.** The applicant has represented that this is a “Master Planned Development” but has produced little planning for the two thirds of the site that would receive a massive density entitlement almost 50% greater than the current (and already generous) OCP maximums. The lack of corresponding development permit drawings to confirm that construction of the project is even possible as it is pictured by this proposal is problematic. The densities included in this application may well require over 20 stories to be realized and will likely be obtained under “as-of-right” applications in the future. A process that grants a rezoning without corresponding fully-vetted development permitting plans should not be entertained by Council for any application.
- **Noise and Livability.** The placement of a Fire Hall and the corresponding disruption of the densest residential neighbourhood in the city when alternatives exist elsewhere appear counterintuitive. The addition of the Ambulance Emergency Bays will severely compound this issue; substantially increasing the frequency of nuisance noise that will be caused by such a concentration of emergency vehicles in this dense residential neighbourhood.
- **DCAP Design Guidelines Significantly Exceeded on Fire Hall Building.** The maximum floor plate sizes in the upper stories prescribed by DCAP in Appendix 6 appear to be significantly exceeded. Floor plate dimensions for the Fire Hall building appear very similar to those of View Towers. The result is a building much too massive in its upper portions presenting a monolith to its several

immediate neighbours to the north. Floor plate limits appear to be exceeded by approximately 30% between the 20m to 30m height (Floors 6, 7, 8) and by over 80% over the 30m height (floors 9, 10, 11). Side yard setback requirements appear to have also not been met. Minimum clearances of 6.0m to property lines at above 30m height have been reduced by over 50%. There are no guarantees that buildings shown in massing diagrams for other areas of the site comply with DCAP. It is essential that all applicants comply with DCAP Design Guidelines, especially when the City itself is a conflicted participant.

- **CACs.** Rezoning this huge property at this time will also allow the applicant to avoid reasonable Community Amenity Contributions. The current CAC structure is under review and will likely yield significantly higher contribution levels for amenities. Approval of the entire site now will forgo all but a pittance.
- **OCP.** The DRA has a policy not to support OCP amendments without a compelling rationale to do so. There appears no evidence (let alone compelling) to support this application under the proposed density and use.

The provision of a post-disaster Fire Hall and a modicum of affordable housing at a fixed cost is indisputably a desirable outcome. This aspect is being well promoted by the applicant; in what appears to be an expertly orchestrated strategy to leverage approval to gain a windfall density entitlement on the remaining two-thirds of the site. Closer examination reveals this is not an exchange of equal value for the public.

The City is a conflicted partner in this development and Council needs to recognize it is a foul of its own commitment to transparency and public process and its ethical obligation to support and respect its own foundational planning documents. The signing of the contract for this Fire Hall was made by the previous Council without any public knowledge or assent and has locked the City into terms that are highly questionable. The public is invited to participate as an afterthought but is told that the deal has been struck; it's this or nothing. But we propose this is a false choice and that this application is not the only way forward. We ask our new Council to consider themselves not bound by the terms of this contract as written.

There are many bad precedents that we would like to avoid setting here, but the main one is, regardless of motivation, that we must not find ourselves corrupting the planning and approval process to the detriment of the public, especially when we need a public building constructed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ian Sutherland', written in a cursive style.

Ian Sutherland  
Chair Land Use Committee  
Downtown Residents Association

## **CALUC Meeting Minutes – Firehall/Pacific Mazda – July 31, 2018**

Presentation: David Jawl-Jawl Residential

Property owned for around 50 years by Nadar Holdings and the Pollen family. City of Victoria's call for proposals to replace Fire Hall #1 precipitated the proposed development. The Firehall is only part of a multiphase mixed use master planned development. The first phase will include the fire hall with residential rental units over with "some if not all" of the units as some form of affordable rental administered by Pacifica Housing.

Agreement was signed in March of this year and engagement with neighbours and the DRA commenced to obtain feedback regarding the proposed development.

HCMA Architects:

The City of Victoria's guiding documents for planning in the local area are the OCP and DCAP. The current zoning is R-48 and S-1. Key items they are pulling out of the OCP "encourage the logical assembly of development sites that enable the best realization of permitted potential land management and development for the area" "there are benefits in pulling it all together into one comprehensive development rather than dealing with individual smaller parcels" and "site specific amendments that are consistent with the urban place designation "Core Residential".

The OCP also identifies the need for a new Fire hall.

DCAP is about guiding the design of a neighbourhood so we end up with a vibrant friendly pedestrian neighbourhood. In terms of building height DCAP prescribes a tapering off of building height from Harris Green to this site which is the edge of Downtown of 15 storeys at Cook Street.

Density Bonus applies to this site by allowing extra height to achieve bonus density.

The R-48 zone does not have a specific density but there are other ways of defining it with height and setbacks. That is not necessarily the building that you would build but it provides you with the density. Combined with the allowable density from the OCP provides an overall site density of 6.8:1. That is the base density based on regulations. No parking is required by R-48.

Harris Green is the part of the City that has the most development and population growth in the downtown core. There is a large consensus that the newer projects by and large are quite OK with a tower and podium. This project proposes a lifted podium with an overhang. Growing the podium together makes for more slender towers.

Post disaster design for the fire hall limits its height to around 11 storeys. We struggled with this to keep it within DCAP.

Fire hall Specific:

Parking is underground. BC Ambulance Service will share this building with 2 dedicated bays. Fire hall will be 6 bays. R-48 zone doesn't require parking but there will be 117 parking stalls.

Q and A:

Local Resident: With the new institutional uses proposed will there be a homeless shelter, needle exchange or shooting gallery, there will be opposition we would like guaranteed assurances in writing that these uses won't be contemplated.

A: The housing is intended to be affordable not supportive. Pacifica will be managing the affordable housing component.

Local Resident: Concerned about the institutional use stated on the form distributed as it will apply to the entire site. This use includes carehomes classes A,B,C. Class A includes people who are lawfully detained as prisoners. Class B includes facilities for the treatment of alcohol and drug addiction. Class C includes critical mental health patients. The residents of the local neighbourhood need clarification and a declaration that these uses will not be permitted on this site.

A; The institutional use will be applied to the whole property and it would be difficult to lock it off to one part of the property

Local Resident: But you can isolate the institutional use to the part of the site that contains the fire hall.

A: We hear your concerns and will take them under consideration with our discussions with the city

Local Resident: I am a Johnson Street resident concerned about the disturbance from fire and ambulances. I work at night and will likely have to sell my property and leave the area. The cumulative effects of all the development going on in the immediate area are going to be unbearable. The sound of sirens echoes badly through the tall buildings and will be worse with more buildings. The new shooting gallery will even make it worse with more emergency vehicles attending.

Q:When do the trucks turn their sirens on?

A:You won't hear a siren until the trucks reach the corner

Local Resident: I'd like to find some Green space and parks that are useable not littered with used needles. We have 9 buildings under construction within 3 blocks with 8 more proposed. We have 11 that are 13 storeys or more. The architect stated that they are working within the permitted development density. That is not true. We also have not seen any amenities in the Harris Green area from all this development.

Local Resident: I live across the street. Sounds like the relocation of the fire hall is already approved?

A: It is approved subject to rezoning

Local Resident: Is there a reason why it cant remain in its current location?

A: It would be cost prohibitive to get a post disaster rating on the existing site

Local Resident: I live across the street. The maximum height currently allowed on the S-1 site is 15m?

A: It will require rezoning but 15 stories is within the DCAP for this area.

54:00

Local Resident: We applaud the work that Pacifica housing does to provide affordable housing. The current R-48 zoning allows only 10 stories and you are proposing 17 and that difference makes a big impact on light coming into the street and light into the neighbouring buildings. Local residents are not compensated in any way for having to put up with blasting, building, blockage of sidewalks and streets. We are told that it's temporary but it's not and I don't see my taxes going down and we get no compensation from Campbell or Farmer. Construction people don't abide by the bylaws for hours of operation. *Applause.*

Local Resident: There is a rep from Pacifica Housing here? Can we have some info on the rental units?

John Luton Pacifica Housing: This is an opportunity aimed at providing affordable housing for low and moderate income individuals. This is not supportive housing but rent geared to income. We are working with CMHC to try and make the entire building affordable for workers in local industries in the city such as tourism to live in the city.

Local Resident: There is a density transfer proposed from the R-48 to the S-1 can you explain?

A: DCAP is the guiding tool for development and on one portion of the site it calls for 17 stories and on the other 15 stories. The firehall building has height limitations due to the post disaster requirements. We are looking not to lose any density and distribute it in a way that meets the DCAP. Nothing planned is taller or does not meet the building separations in DCAP.

Q: Has this ever happened before?

Alison Meyer COV Planner: As far as density transfer I am not certain but density has been apportioned around specific sites such as the Hudson.

Q: Can you explain R-48 zoning?

Alison Meyer COV Planner: R-48 originated about 20 years ago. It has no parking or floor space ratio requirements but has a height limit of 10 stories. Theoretical density has been calculated by applying the setbacks and height and creating an allowable floor plate from which densities can be calculated.

Q: what are the different ratios here?

Alison Meyer COV Planner: The developers have figured out the R-48 at 8.8 to 1 and the S-1 is 1.5 to 1

Q: And all R-48 have achieved these densities?

Alison Meyer COV Planner: The newest ones have achieved these higher densities.

CALUC Chair: The Mondrian across the street achieved 4.8:1 and the Jukebox on View achieved 4.4:1 sticking to the 10 storey height maximum.

Local Resident: This is a phased development. Do you have rough timelines on the entire buildout?

A: Right now the plan is for a 4 phase development the first being the fire hall building. There is no specific timeline for the balance of the site. One of the benefits of pre-zoning the site will be to be able to move quickly with construction of subsequent phases.

Local Resident: I live opposite this development. How many years of construction am I facing?

A: The fire hall phase will take anywhere from 24 to 30 months. This project could take 5 to 7 years before it is complete.

Local Resident: Is living above a fire hall a suitable environment for children? Where are the kids going to play

A: There are many examples of families living adjacent to fire halls. There is an outdoor area on level 4 that can accommodate children's activities.

Q: So I'm not going to hear sirens going down Yates all the time?

A: Yes you may still hear them on Yates

Q: Green space. I live at 1020 View and everyone admires our green space. Where is the green space in this project? You show a little corner of the site and that's it, and parking?

A: We intend to accommodate city parking regulation schedule C for this project. As far as green space is concerned we are providing a significant cutout on the corner. There is significant green space on top of the podium which belongs to the users of the buildings.

Local Resident: What we are seeing in this whole area is buildings built right to the sidewalk and only stepping back after 3 or so storeys. What the pedestrians experience is a concrete jungle. This is like Vancouver and not what Victoria has been about. There seems a policy to cram more and more buildings in no green space and parking is going to be insane. We can't keep putting more and more people in here without adequate parking or adequate green space. *Applause*

A: We are trying to pull the building up and back and provide an overhang.

Q: We do not see any thought being put into amenities for the public just cramming more and more density into our area

Local Resident: I live right next door. I feel I'm part of a social experiment to see how much noise and disruption I can take before I'm pushed out of this area. The people in this room will be subject to 5 to 7 years of disruption and we get no benefit from this, we get more aggravation, noise, and traffic disruption. Even when this is done then it will then be the other side of the street and 30 years go by with it never ending. *Applause*

Local Resident: Affordable housing is supportable but will it change after a few years to something else like air bnb or hostel use.

A: No Pacifica housing will run this, or a portion thereof, as affordable rental housing only.

Local Resident: When our building was constructed the City required a significant portion of green space. Do you think what is proposed reflects the name of the community Harris Green?

Do you have a midblock crosswalk? There are major safety problems with midblock walkways

A: Community amenities will be contributed as per city requirements. There are bad midblock walkways and good ones. They work well when there is a series of them across several blocks but that doesn't exist here.

LUC Member: We see that there has been a theoretical calculation of density for the R-48 part of the site that is to be transferred to another part of the site. The level of density that has been calculated cannot be built. Other R-48 buildings in the local area that have been built that stayed within the 10 storey limit managed an FSR of about 5:1. This application is claiming density rights of 8.8:1 on the R-48 which they want to move to a different property. This is what happens when you let the developers do the math, and that's their role, they are trying to maximize density, and it's our role to try and catch it. What I'd like everybody to acknowledge is there is a lot of pushback in the room around livability and green space and I would quibble with

their math and question why the city is allowing developers to apply calculations of this type.  
*Applause*

Local Resident: My comment is to the city staff. The developers do what they need to do but the city should be looking after us. My question is why there is so much is given away with so little in return. *Applause*

Local Resident: Was your application for the fire hall contingent on rezoning approval for the entire site not just the fire hall? Will the property be amalgamated or will the lots be kept separate and possibly sold off separately? If the lots are kept separate nothing is stopping you from selling to another developer who will do something entirely different from what you propose here with the new density entitlements

A: We have to rezone the whole property as one. The fire hall straddles I believe 5 lots so the whole property needs to be rezoned. We will subdivide the fire hall parcel off as one parcel. We want to set the development up for future phases. We have a long track record of doing development work in the City of Victoria and it is our plan to develop this site.

1:32

Local Resident: We will be subject to more noise and more traffic. I have a friend who lives next to the existing Fire hall and before the truck leaves the bay its already sounded its siren. What is the wisdom of putting the fire hall on a one way street? Cook street has two directions. I'm just sorry this is happening.

Local Resident: Just complimenting the developer being open to coming and providing answers and facing criticism. It sounds like there is a willingness to work with the community which I appreciate. My comments are actually directed at the City representatives here tonight and that they are actually hearing the community and the crap we have to deal with. We would like to be respected as taxpayers and that they understand the community wants noise and traffic bylaws enforced and particularly that we want of green space. We want the City to be listening tonight.  
*Applause*

Local Resident: My comment is also to the city. Talking about all the housing that we need to provide we also need to provide the amenities that go along with the housing like schools, medical services offices and green space.

Local Resident: This is a message to City representatives. Projects like this can come with many unknowns. If locals find out that there is a hidden agenda around the institutional use such as treatment centers, homeless shelters, shooting galleries etc there will be massive pushback from the local residents.

Local Resident: There are also 5 and six storey buildings in this 3 block area. Harris Green is not getting the amenities that they should. I think we can feel safe with Pacifica Housing and Jawl but this site is proposing a much higher density but we don't seem to be getting anything for it.

1:38

Local Resident: Thank you Chief you and your workers deserve the best and thank you for your service. *Applause* As far as the rest of it build the fire hall build the facilities not the buildings and more green space *Applause*

LUC Chair: Just like to make a comment regarding the R-48 Properties and the proposed theoretical 8.8:1 density, and that this density could not actually be built on that site. If you look at all of the other R-48 properties that have been constructed to date in the city, all of them except for one have come in under the OCP maximums for this area at 5.5:1 or lower. This one is about 25% more dense than any other R-48 property built to date. Other developers have come forward with these theoretical densities but this is the highest we have ever seen

Local Resident: Can you tell us what R-48 means?

LUC Chair: R-48 was a zoning that was created back in 1997 by the Council of the day to stimulate residential construction Downtown. It was meant to create 10 storey buildings with residential capacity but it turns out the bylaw wasn't very well written because no one thought to write a maximum density into it. Ten years ago no one would have considered building a building taller than 10 stories in Victoria but that has changed but the R-48 zoning stayed the same so now rather than being restricted to building a building only 10 stories high developers have applied for height variances to increase the buildable area. The building across the street the Mondrian is pretty much the example of what an R-48 building built to the original intent of 10 stories would be. It is 10 stories high and 4.8:1 density. I think the R-48 zone is problematic the way it was written.

Applicant: Yelling at whoever made the R-48 zone 20 years ago is a futile experiment. The zoning exists and the density is there to facilitate housing to provide residential housing and that was the purpose of the zoning to begin with. The Yates on Yates went forward last year with DRA support and had a theoretical density of 7.57:1 and went through at 7.4:1 so we are not the first to break this mould. We are trying to bring forward a representative density to the entitlement that we have. We will take the feedback we heard tonight under consideration.