

Mayor and Council  
Victoria, BC

October 23, 2017

## 1201 Fort Street Development Proposal

Dear Mayor and Council:

One of the most egregious aspects of this proposal is the developer's massive attempt to externalize the costs of the development onto the community, so that more profits are internalized by the corporation.

This is quite simply done by refusing to pay for the amenities that zoning entails. When viewed by the corporation these amenities are costs. Every other property owner pays them, but this corporation will not.

What is the space around a building that is required by zoning but a public good that other people and neighbours can enjoy? Why do we have zoning at all, but to protect one property owner from the encroachment of buildings on another property? Why do residential buildings have space in front, space on each side, and space at the back? Why are residential buildings limited in height? Why are residential buildings limited in area to a strict relationship to the size of the property?

These rules also apply to the multi-storey condo and apartment buildings in residential zones, along corridors. Take a walk on Linden from Fort Street to Rockland Ave, or Rockland Ave from Linden to Cook Street. Another street with multi-storey buildings is on View Street from Cook to Ormond. Most importantly, on the Heritage Corridor of Fort Street, all the multi-level residential buildings have that all-important space around them.

Good zoning makes good neighbours. We have these rules to ensure peace, order and good government. This space is a public good. The restrictions on the space that a building can occupy on its property are a public amenity of the highest order. There is no greater amenity. At its most fundamental, it is a one-time tax on each property owner. A one-time tax all property owners pay, that will last the community a lifetime. "Taxes are what we pay for a civilized society," to quote Oliver Wendell Holmes, Jr.

But, Abstract Development does not want to pay these taxes, these costs. Here is a partial list of the costs that the corporation is asking the taxpayers of Victoria to pay. It is a list of variances to avoid the requirements of the current zoning of 1201 Fort Street.

- a. increase the maximum height for Building A from 12.00m to 21.42m.
  - b. increase the maximum height for Building B from 12.00m to 15.11m.
  - c. increase the maximum site coverage from 40% to 57.20%.
  - d. reduce the Fort Street setback for Building A from 10.50m to 6.00m (to the building).
  - e. reduce the south setback for Building B from 9.00m to 4.67m.
  - f. reduce the west setback for Building A from 10.7m to 4.00m (to the parkade structure)
  - g. reduce the west setback for Building B from 7.56m to 0.60m (to ground floor parking area and patio screen).
  - h. reduce the Pentrelew Place setback for Buildings C,D and E from 5.37m to 2.00m (to buildings) and 1.91m (to stairs).
  - i. reduce the required parking from 132 parking stalls to 121 parking stalls.
  - j. reduce the required visitor parking from 12 stalls to 9 stalls.
- (Add, 100% rentability to this list)

The corporation wants to externalize these costs (onto the community) in order to internalize a larger profit for itself. Wouldn't we all? But, we don't. Society cannot long tolerate individuals or corporations that flout rules, conventions or accepted practises. Where would we be if everyone did this? How much civilization would we buy if no one paid taxes?

There will be some who say that this proposal is an exception. The corporation is willing to pay for these gains with add-ons. Rather than diminish the gains that accrue to it, by externalizing these costs, the corporation is adding on public amenities, the most valuable of which is the so-called Affordability Credit (which is actually a credit of 0.50% in cash). The corporation is not willing to diminish the size of the development at all because the profit is locked in. And, the profit will grow substantially with every cost that is externalized onto the taxpayer and the community.

Of course, I would like to see a cost / benefit analysis done on these variances (and other requests), to ensure that the public is actually ahead when the negotiations are concluded. But, given the fate of the Land-Lift Analysis of the last proposal, it would far wiser for the City to avoid the entire negotiation altogether. Given that the City Staff recommends that all these variances (and other requirements) be happily accepted, I'd say that this road not be taken. (Sometimes, when I look at the chest-thumping enthusiasm with which the City Staff recommends this proposal, despite the sheer volume of its flaws, I must admit that it is hard for me to figure out who is in charge: City Staff or the development corporation.)

It is unwise to allow this Corporation to not pay the costs that all others pay, to, in effect, externalize its costs in order to internalize a larger profit for itself. The zoning requirements for this property should not be carelessly given away in return for the paltry amenities that the corporation is offering. What we are giving away in Public Amenities is far more valuable than what we are being offered in return.

I ask you, our representatives, to protect the public good and follow the only sound advise proffered by City Staff, the alternate motion.

That Council decline Rezoning Application No. 00525 and Development Permit with Variances Application No. 00035 for the property located at 1201 Fort Street and 1050 Pentrelew Place.

Thank you.

Don Cal

### **What is 'Regulatory Capture '**

Regulatory capture is a theory associated with George Stigler, a Nobel laureate [economist](#). It is the process by which regulatory agencies eventually come to be dominated by the very industries they were charged with regulating. Regulatory capture happens when a regulatory agency, formed to act in the public's interest, eventually acts in ways that benefit the industry it is supposed to be regulating, rather than the public.

### **BREAKING DOWN 'Regulatory Capture '**

Public interest agencies that come to be controlled by the industry they were charged with regulating are known as captured agencies. Regulatory capture is an example of gamekeeper turns poacher; in other words, the interests the agency set out to protect are ignored in favor of the regulated industry's interests

(source: Investopedia)