

**Planning &
Development
Department**

#1 Centennial Square

Victoria

British Columbia

V8W 1P6

Tel (250) 361-0382

Fax (250) 361-0386

www.victoria.ca

April 17, 2009

Province of British Columbia
Integrated Land Management Bureau
142 - 2080 Labieux Road
Nanaimo, BC, V9T 6J9

Attention: Gordon Smaill, Land Officer

Dear Mr. Smaill:

Re: Victoria International Marina
City of Victoria Referral Comments to Province

The purpose of this letter is to respond to a referral from the Province of British Columbia, regarding a proposed marina to be located along the shoreline of the Songhees Peninsula, in the Victoria Harbour. The proponent of the marina is Community Marine Concepts Ltd.

When the City considers a development application, the application is reviewed in terms of community planning policies, engineering standards and parks and recreation interests. Although the City is not the approval authority for the proposed marina on the provincially owned water lot, we are acting in the public interest and providing comments to the Province which may assist in the decision making process.

The City is of the understanding that the Province has "*Strategic Policy Crown Land Allocation Principles*" which are used to assess an application for land tenure. These principles include:

1. *Crown land values are managed for the benefit of the public.*
2. *Economic, environmental and social needs and opportunities are identified and supported.*
3. *The interests of First Nations' communities are recognized.*
4. *Decisions are timely, well-considered and transparent.*
5. *Public accountability is maintained during the allocation of Crown Land.*

We refer to existing City policies and regulations in order to assist the Province in evaluating the proposed marina application, particularly with respect to the public interest in the management and development of these lands. We have outlined relevant City policies and regulations which are designed to protect the public interest in the Harbour, which is a defining element of the City of Victoria, the capital city of British Columbia.

The planning policies and regulations, which provide direction for growth and development along the shoreline and land on the Songhees Peninsula, include the *Zoning Regulation Bylaw*, the *Policy Plan and Design Guidelines for the Songhees Area of Victoria West* and the *Victoria Harbour Plan*. The following provides comments about the policies and regulations within these documents.

Zoning Regulation Bylaw

There are two zones which apply to the proposed marina site. The M-3 Zone, Heavy Industrial District, applies to the majority of the site. Docks, wharves and piers are permitted in this Zone. The eastern portion of the proposed marina is located in the VHP Zone, Victoria Harbour Park District. Although this zone does permit docks for pleasure boats, the underlying intent of the zone has been to limit the range of marine uses to those which are oriented to public use and more compatible with surrounding residential uses (see attached zoning map).

Policy Plan and Design Guidelines for the Songhees Area of Victoria West, 2005 (Amended)

The *Policy Plan and Design Guidelines for the Songhees Area of Victoria West* (Songhees Plan) provide direction for growth and development in this area of the City. The Songhees Plan (attached) does anticipate the development of a marina along the Songhees shoreline. However, other policies of the Songhees Plan must be considered when assessing the proposal to determine if the scale and character of the proposed marina are appropriate for this location. The following provides comments on policies and objectives for the Songhees area, which are relevant to the proposed marina.

***Size of the Proposed Marina* (pages 9 and 21):**

Figure 1 – Neighbourhood Plan and Figure 10 – Park, Greens, Open Space and Community Facilities, although illustrative only, these indicate an anticipated size of a marina.

Comment:

The proposal is for a 50-slip commercial marina and our understanding is that the design would accommodate large yachts. The size of the proposed marina appears to be larger than the size of the marina anticipated in the Songhees Plan. In the Songhees Plan, the area anticipated for the marina appears to be centered around the semi-circular boat basin between Paul Kane Place and Cooperage Place.

***Concept Objectives* (page 6):**

Waterfront Development should incorporate continuous linear public space, provide access to the water's edge and provide centres for community activities and events.

Comment:

The proposed marina may have an impact on public access and enjoyment of the water. It is a significant public amenity to have access to the water's edge and this is achieved through the linear trail system that extends along the Songhees Peninsula. This aspect should be considered when the Province assesses this marina proposal.

Parks and Open Space / Community Facilities (page 20):

The parks and open spaces have been located in specific areas because of existing natural landscape, topography, or special view, features or requirements for different activities.

Figure 10, on page 21 of the Songhees Plan establishes "Main Vistas" or view corridors through Paul Kane Place and Cooperage Place.

Comment:

View corridors are an important aspect of community planning, especially in the Victoria context where views to the ocean, natural shoreline and surrounding hills are so valued by the community. The policy intent is that view corridors be maintained from the land, looking down these corridors towards the Outer Harbour. The proposed marina design may have an impact on these view corridors. We would ask that the Province consider this policy in their assessment of the marina proposal.

Building Siting (page 28):

An important view to preserve – along Sitkum Road south of Esquimalt Road to the Harbour and beyond to the Harbour entrance. (Please note that at the time this policy document was created Cooperage Place was described as Sitkum Road.)

Comment:

The Songhees Plan describes important public view corridors on page 28 of the Plan. Two important view corridors pass directly through the proposed marina site. The Province should consider how the proposed marina would have an impact these important view corridors established in the Songhees Plan.

Lime Bay - Natural Landscape (page 30):

The character of the Lime Bay neighbourhood is derived from the park: a natural landscape with plantings of grasses, wildflowers and indigenous shrubs and trees. The neighbourhood, a residential transition and interface with the present Victoria West community should be oriented to sun and views and to natural landscape features such as the rugged rocky headland and the shoreline with coves and pebble beaches.

Comment:

The importance of the natural shoreline and landscape in the Lime Bay area is emphasized through the above statement in the Songhees Plan. The proposed marina may have an impact on the natural landscape of the Lime Bay area, which should be considered during the Provincial review.

Victoria Harbour Plan, 2001

The *Victoria Harbour Plan* (attached) was adopted by Council in 2001. "The purpose of the Harbour Plan is to provide direction and certainty for land uses and marine dependent activities in and around the Victoria Harbour." There are a diverse range of activities and interests that have a direct impact on the marine environment. The *Harbour Plan* aims to eliminate or mitigate potential conflicts associated with this range of activities and, at the same time, take advantage of opportunities and compatibilities.

Although marine activities and related uses are encouraged in the *Victoria Harbour Plan*, and the Plan does refer to a potential marina in front of the Royal Quays as outlined in the *Policy Plan and Design Guidelines of the Songhees Area of Victoria West*, there are other interests and concerns within the Harbour which should be given consideration by the Province when assessing this specific land tenure application.

Natural Environment (page 12)

There is a growing public expectation that the natural habitat and wildlife species will be protected. The value of the natural environment is tied, not only to aesthetic and quality of life issues, but is also linked to the region's tourism and recreation industries. Preserving natural marine habitat and species is important for the local economy.

Comment:

We would like to bring to the Province's attention the desire expressed through the Harbour Plan to protect the natural habitat and wildlife species in the Harbour. We are confident that the Province will do its due diligence and consider the potential environmental impacts of this marina application.

Public Path System (page 18)

The Harbour Plan supports a public pathway around the Harbour.

Comment:

One of the most important community amenities in Victoria is the Harbour pathway. An objective of the *Harbour Plan* is to establish a continuous public path system around the Harbour.

The Westsong Walkway abuts the proposed marina. The pathway also provides exceptional views to the Outer Harbour, so it will be important that any impact by the proposed marina on these views be considered.

Songhees South Shore (page 25)

Objectives

Maintain view corridors through to the water. Map 9 – Pathways, Parks and Vistas (page 19) identifies important view corridors for the Harbour.

Comment:

The *Harbour Plan* identifies important view corridors from the Victoria West Neighbourhood to the Harbour through Paul Kane Place and Cooperage Place. These view corridors are labeled as Major Vistas on Map 9 – Pathways, Parks and Vistas. These important view corridors or major vistas may be affected by the proposed marina, as it is currently designed.

In addition, the Outer Harbour is considered a gateway to Downtown Victoria. Map 9 identifies important view corridors from the Outer Harbour towards the Inner Harbour and Downtown. The proposed marina would alter the current "gateway" to Downtown Victoria from the water which may affect this important view corridor.

Parks Master Plan – Draft 2009

The City is in the process of developing a Parks Master Plan. The Master Plan is currently in draft form. There has been an ongoing public consultation process throughout the development of the draft Plan. Although the Parks Master Plan is in draft, the City considers it appropriate to forward some comments from the draft Plan that may be applicable when the Province reviews the marina proposal.

Scenic Views

There are a number of parks and pathways around the City that offer significant vistas of the City, Harbour, Gorge Waterway, Juan de Fuca Strait, and other surrounding areas. The placement of buildings, accessory buildings, fences, vegetation, and other structures within or immediately adjacent to public open spaces can impede these views and take away from the intrinsic character and value of the site.

Managing parks and pathways to retain scenic views involves careful management of resources and uses, and coordination with other City departments and in some cases, neighboring landowners. Established City planning processes such as property rezoning, development permits, variances and policies that review and assess site-specific changes to established land uses can often be used to safeguard significant views from key public spaces.

Comment:

As noted above, the retention of scenic views should be given consideration when assessing a development proposal. Lime Bay Park and the Westsong Walkway are important community spaces

Recommendations – From Draft Parks Master Plan

The following draft recommendations from the Draft Parks Master Plan may be applicable to the Province's review of the proposed marina:

- *Maintain and enhance Victoria's natural shoreline areas where opportunities present themselves.*
- *Maintain and enhance locations where small boats (non-motorized) can be launched.*
- *Where shoreline development is allowed to occur, use materials which visibly blend in with the natural environment and allow the functioning of natural ecosystems to the highest degree possible.*
- *Work with other City departments and review development applications and park improvement plans to preserve scenic views from parks.*
- *Support policies in the Victoria Harbour Plan and Official Community Plan that preserve significant views of the Harbour, waterfront and distant mountains.*

Greenways Plan, 2003

City of Victoria Council adopted the *Greenways Plan* in 2003. The purpose of the *Greenways Plan* is to provide a policy framework and a series of strategies that will establish a Greenway system throughout the City of Victoria. The Westsong Walkway, which is the pedestrian path along the Songhees waterfront, is designated as a People Only Greenway.

The Benefits of Greenways (page 3)

The Greenways Plan highlights a number of community benefits that can be achieved through the development of a Greenways program, including economic, health, environment, recreation and social/community benefits.

Comment:

The Westsong Walkway is a valuable community amenity. This Greenway is used for a variety of purposes, including health and recreation, nature lovers and commuters to and from the Downtown. The Greenway is also used by tourists who enjoy the views to the Outer Harbour and Downtown Victoria. The benefits that this Greenway bring to the City should be considered during the Province's assessment of the marina proposal.

Access to Water (page 9)

Where a Greenway is adjacent to an aquatic environment, Greenway design will provide opportunities for the public to get close to water where it is safe and compatible with environmental conditions.

Comment:

Access to the water's edge is an important component of waterfront trail design. With the development of a marina, the access to the water's edge may be altered, affecting the enjoyment and experience along this Greenway. Access to the water's edge and the overall impact of the proposed marina on this important pedestrian Greenway should be considered by the Province when assessing the marina proposal.

Riparian Rights for Lime Bay Park

The City has previously raised this issue with the Province but would like to reiterate its concerns. The City, as the land owner of Lime Bay Park, is concerned that its riparian rights may be infringed upon by the proposed marina. Our understanding of riparian rights is that the City, as a land owner with riparian rights, has the right to unimpeded vessel access to the City's property. We understand that the Province will be examining the issue to determine if the City's riparian rights are affected by the proposed marina.

Servicing and Parking

The proposed development will involve construction activity on the foreshore area of the Songhees Peninsula, including an interface with the existing public waterfront walkway. The applicant has noted that municipal and utility servicing are required to the proposed development. The unique nature of the servicing and the proposed method of construction may have an impact the foreshore area. We trust the Province will consider the potential environmental impacts of this aspect of the development.

The application includes reference to vehicle access and parking associated with the development. The issue of parking demand generated by the proposed use and impact in the neighbourhood should be considered by the Province when assessing the marina proposal.

Conclusion

Further to the above information, attached please find a list of questions from City Council. Could you please respond to the attached questions in addition to any other information you may provide?

Thank you for forwarding the referral application to the City of Victoria. Like the Province, our aim is to consider community values when assessing development applications.

We trust this letter will assist the Province in the review and decision-making process.

Yours truly,

Alison Meyer, Manager
Development Services

AM:aw

Attachments

- M-3 Zone, Heavy Industrial District
- VHP Zone, Victoria Harbour Park
- Policy Plan and Design Guidelines for the Songhees Area of Victoria West, 2005
- Victoria Harbour Plan, 2001
- Greenway Plan, 2003

Questions from Victoria City Council

WATERLOT

Who defined the size and configuration of the water lot?

The City's 1985 planning document entitled Songhees Guidelines illustrated a much smaller marina footprint that did not extend in front of Lime Bay Park (to the west) or the Victoria Harbour Park (to the east). Would the ILMB take into account the foreshore park use (Lime Bay Park) or park zoning (Victoria Harbour Park) in determining the overall marina footprint?

RIPARIAN (Littoral) RIGHTS

How are the littoral rights of upland owners determined?

What is the technical standard that the ILMB applies in determining whether an upland owner's littoral rights are affected by a water lot development?

Is there any avenue for appeal if an upland owner's littoral rights are satisfactorily considered by the ILMB?

MORATORIUM ON YACHT CLUBS

The Greater Victoria Harbour Authority business plan refers to a moratorium on marinas. The moratorium was apparently specific to yacht clubs and was intended to regulate the growth of fixed moorage facilities and encourage transient moorage. Does a marina with strata-titled slips meet the intent of the principles of the moratorium?

Can an interest in a Provincial Crown water lot be conveyed through a strata plan to a strata unit holder?

NATURE OF LEASE

What is the term of the proposed lease under review by the ILMB?

Is there a different lease for the construction phase of the project only?

What are the performance provisions under the proposed lease?