

Rezoning: 1401-1455 East 49th Avenue - Oppose

Date Received	Time Created	Subject	Position	Content	Author Name	Neighborhood	Attachment
2025-10-13	21:06	Rezoning: 1401-1455 East 49th Avenue	Oppose	The space is needed for the school, Sir Sandford Fleming. The school is already over capacity and needs more space. There are more and more families in the area, and will need to expand the school’s capacity. This is a very short-sighted plan by the VSB with no input from the community. Do not sell off this land for development	Beverley Lau	Victoria-Fraserview	
2025-10-15	12:08	Rezoning: 1401-1455 East 49th Avenue	Oppose	As a mother of two young children who both attend Fleming Elementary, I am horrified and strongly oppose of VSB's decision to lease Fleming land to a private developer. I am deeply concerned about: Traffic Congestion & Safety Risks: Increased traffic from redevelopment will make drop-offs and pickups more chaotic and dangerous, especially for children walking to and from school. The intersection is already very busy with two main corridors, and adding additional dwellings and businesses will multiply impact significantly. Not in the Best Interests of Children: The redevelopment plan prioritizes infrastructure over the needs of the children. Decisions should center on what’s best for students and the school — not convenience or cost. Impact on School Services: Redevelopment could interfere with access to classrooms, programming, and building of future expansions and portable classrooms, potentially hindering the school’s ability to operate smoothly and accommodate student needs. As a parent to a grade 2 and daycare-aged student attending Fraserview Daycare at Fleming, we will be part of the school community for at least 10 years. Loss of Green Space: Fleming’s outdoor areas are vital for physical activity, mental health, and social development. Removing or reducing this space directly impacts students' livelihoods and access to basketball courts, recreational space, and fresh air. Hindrance to School Activities: Sports, outdoor learning, and recess will be compromised, limiting opportunities for movement, creativity, and connection. Fleming is more than a school — it’s a community. Disrupting this space affects the community's sense of stability, belonging, and joy. A small parcel of land disrupts the purpose of having a community-based space for all to enjoy.	Jennifer Lau	Killarney	
2025-10-20	12:58	Rezoning: 1401-1455 East 49th Avenue	Oppose	Please see attached.	Melanie Cheng	Renfrew-Collingwood	Appendix A

From: Melanie Cheng

October 17, 2025

To:

City Clerk – City of Vancouver (via email)
Mayor and Council (via email)
Auditor General (via email)

Dear City Officials,

Re: Request for Review -

Subdivision and Rezoning (together, the “**Fleming Land Decisions**”) of public-school lands at **Fleming Elementary**, civically described as 1401-1455 East 49th Avenue, Vancouver, BC (hereinafter the “**Fleming Parcel**”) – Public Hearing scheduled for **October 23, 2025**; and

Subdivision (SD-2022-00071) application (“**Carleton Subdivision**”) of the public-school lands at Carleton Elementary, civically described as 3250 Kingsway, Vancouver, BC (“**Carleton Parcel**”)

I am writing to request a review of the City’s processes and decision-making in respect of the Fleming Land Decisions and the ongoing Carleton Subdivision. Both matters concern public school lands and were initiated by the Vancouver School Board (hereinafter the “**VS**B”).

This request seeks to ensure that the City’s determinations are transparent, evidence-based, and compliant with obligations under the *Vancouver Charter* and the *Canadian Charter of Rights and Freedoms* (hereinafter the “**Canadian Charter**”), specifically section 23, which protects minority-language education rights (hereinafter “**s. 23 Charter Rights**”). The City must consider s. 23 Charter Rights whenever a decision could affect the creation, upkeep, or future planning of minority-language schools.

FLEMING LAND DECISIONS

1. Background and Supporting Records

This request for a review is based on the following facts and documents:

- (a) On May 8, 2025, at the VSB’s request, the City completed the processing of [Subdivision SD-2019-00033](#) in respect of the Fleming Parcel.
- (b) On May 23, 2025, a case relevant to VSB’s facilities planning, [Conseil scolaire francophone de la Colombie-Britannique v. British Columbia \(S.C.\), Gomery J., 2025 BCSC 962 \(Vancouver S2013627, May 23, 2025\)](#), was determined. The VSB had a dual role (applicant for the Fleming Parcel subdivision and party to this case) and should have advised the City that the judgment on this case was imminent and material to the Fleming Land Decisions. In that case, Justice Gomery held that school-site decisions and land policies cannot override s. 23 Charter Rights.
- (c) On June 16, 2025, the VSB publicly issued its updated [Facilities Planning enrolment projections](#) (hereinafter “**VS**B June 2025 Data”) for land-use decisions.

- (d) The City's [referral report dated September 2, 2025](#) recommended that Council refer the rezoning of the Fleming Parcel to a Public Hearing. The City's referral report relied on the VSB's 2020 LRFP school capacity data for Fleming Elementary ([at page 9 of the referral report](#)), and not the VSB June 2025 Data.
- (e) On September 16, 2025 City Council voted to refer the rezoning of the Fleming Parcel to a Public Hearing. That same day, I sent a request to the City and Councillors by email to update the referral report for the Fleming Parcel with the VSB June 2025 Data.
- (f) As of today, the referral report for the rezoning of the Fleming Parcel has not been updated with the VSB June 2025 Data. The Public Hearing is scheduled for **October 23, 2025**.

By relying on the VSB's outdated 2020 LRFP data, the City risks decisions that undermine access to adequate educational facilities for all students, including the francophone community protected under s. 23 Charter Rights as outlined below.

2. Legal Framework

- (a) *Vancouver Charter* (ss. 562.1, 563, 565):

The above-mentioned provisions ensure coordination between municipal land-use planning and school-facility planning.

Section 562.1(1) of the *Vancouver Charter* requires that City Council “**must consult with the boards of education for those school districts**” regarding plans for school facilities, including the actual and anticipated needs for school facilities and support services in the school districts. In Vancouver, this duty necessarily extends to both the VSB and the Conseil scolaire francophone (CSF), each responsible for public education within the City of Vancouver.

The intent of Section 562.1(1) of the *Vancouver Charter* is to integrate accurate, current school-capacity information into land-use decisions. This data remains directly relevant to assessing rezoning and subdivision processes involving school lands.

While the Approving Officer acts independently in respect of the City's subdivision approvals under Subdivision By-law No. 5208, the City must still ensure consistency with Council's statutory consultation obligations and data currency requirements.

- (b) *Canadian Charter*, s. 23 (and via s. 32(1)(b)):

Section 23 of the *Canadian Charter* guarantees members of minority-language communities the right to receive education in their own language. Under s. 32(1)(b), the *Canadian Charter* binds all public authorities acting under provincial authority, including municipalities created by statute. As a creature of the *Vancouver Charter*, the City of Vancouver is therefore constitutionally obligated to uphold s. 23 Charter Rights when exercising its discretion over subdivision, rezoning, or disposal of school lands.

The Supreme Court of Canada has confirmed that municipalities are subject to the *Canadian Charter* when exercising statutory discretion (*Godbout v. Longueuil*, [1997] 3 S.C.R. 844), and that public authorities must not impair the ability of minority-language communities to establish or maintain appropriate educational facilities (*Doucet-Boudreau v. Nova Scotia*, [2003] 3 S.C.R. 3).

In *Conseil scolaire francophone de la Colombie-Britannique v. British Columbia*, 2020 SCC 13 (at paras. 58 and 59) the Supreme Court of Canada emphasized that **accurate, evidence-based, long-term enrolment projections** are fundamental to making a determination on the provisions for minority-language education. The Court explained that the analysis must consider “statistical models that take into account the demographics of the community in question, its geographical location and any other factor that might have an impact on the number of students,” and that reliance on short-term or outdated data would be contrary to s. 23 Charter Rights and established case law.

Most recently, in *CSF 2025 BCSC 962 (Gomery J.)*, the Court confirmed that the existence of provincial orders and local administrative policies in respect of school land cannot override s. 23 Charter Rights (at paragraphs 713-715).

Accordingly, it is insufficient for the City to proceed with rezoning decisions in areas already experiencing school over-capacity based on obsolete enrolment figures. The case *CSF 2020 SCC 13* requires the use of current, evidence-based, long-term projections to ensure that minority-language educational rights are not impaired by municipal land-use decisions.

The Fleming Parcel lies within an area of significant population growth where access to educational facilities (including potential francophone facilities) is essential. Accordingly, the City’s review processes for the Fleming Land Decisions should include an explicit s. 23-informed analysis, grounded in current data, and confirm consultation with both the VSB and the CSF.

CARLETON SUBDIVISION

The VSB filed the application for the subdivision of the Carleton Parcel with the City on September 21, 2022 ([SD-2022-00071](#)) and is currently listed as “Preparing Recommendation”. As with Fleming, the Approving Officer’s exercise of statutory discretion over subdivision engages the obligations under the *Vancouver Charter* and s. 23 Charter Rights.

The Carleton Parcel lies within the Joyce–Collingwood Station Transit-Oriented Area (TOA), a zone expected to experience significant residential growth. The Supreme Court of Canada in *CSF 2020 SCC 13* confirmed that the first step under s. 23 Charter Rights is to determine how many students are entitled to education. At paragraph 58, the Court emphasized that demographics of the community, geographic location and any other factor affecting student numbers should form part of this analysis.

The VSB’s 2020 Long-Range Facilities Plan which the City of Vancouver continues to rely on, does not account for population growth resulting from recent housing policies or geographic areas. TOAs are geographically defined zones surrounding rapid-transit infrastructure that concentrate higher-density development and family housing, directly influencing local school demand. Continued reliance on the 2020 LRFP therefore fails to meet the evidentiary and planning standards set out in *CSF 2020 SCC 13*, which requires geographically informed and evidence-based data when assessing educational facility capacity.

REQUESTED REVIEW AND ACTION

The decisions in respect of the Fleming Parcel and Carleton Parcel require the application of relevant legislation because these decisions involve public school land. I respectfully request that the following actions be undertaken:

1. For City Council (Fleming Parcel Rezoning for Public Hearing on Oct 23, 2025):

- (i) Adjourn the Public Hearing on the Fleming Parcel and refer the item back to staff; and
- (ii) Direct staff to:
 - (A) file an addendum to the referral report for the Fleming Parcel updating all school capacity/enrolment references with the VSB June 2025 Data, including without limitation the relevant Metro Vancouver youth population data;
 - (B) provide an explicit s. 23 Charter Rights analysis (per *CSF 2020 SCC 13* on evidence-based projections) assessing whether the proposed rezoning would, or would not, impair minority-language education rights; and
 - (C) re-consult with the CSF and VSB and return with their written positions on capacity impacts and accommodation options.

The rezoning should not proceed to Public Hearing until all the above items are complete and transparently published so that the public may provide feedback.

2. For Auditor General (Fleming Parcel Subdivision):

The subdivision approval of the Fleming Parcel (SD-2019-00033) was issued by the City's Approving Officer and registered at the Land Title Office. Once registered, the subdivision approval is deemed final but remains subject to judicial review for compliance with statutory and constitutional obligations.

I respectfully request that the City Auditor General review the process by which the Approving Officer issued the subdivision approval for the Fleming Parcel under Subdivision By-law No. 5208 to determine whether:

- (i) consultation occurred with both the VSB and the CSF, as required under section 562.1(1) of the *Vancouver Charter*;
- (ii) current enrolment and capacity data were used in the City's evaluation of the subdivision application, consistent with *CSF 2020 SCC 13*;
- (iii) the determination by the Approving Officer adequately considered the City's obligations under s. 23 Charter Rights, as interpreted by recent case law (*CSF 2025 BCSC 962*) in relation to decisions concerning school lands; and
- (iv) the VSB, as applicant for the subdivision, disclosed to the City the existence of the then-pending *CSF 2025 BCSC 962* case prior to the Approving Officer's decision, so that the City could properly assess potential constitutional implications.

In general, I have concerns about the processes governing the subdivision of school lands and question why the subdivision of the Fleming Parcel completed on May 8, 2025 just weeks before the Court's decision in CSF 2025 BCSC 962 on school land matters was released on May 23, 2025.

Further, the VSB's Metro Vancouver enrolment projections, showing growth at Fleming Elementary, were available to the VSB as early as March 2024. However, the VSB did not release the enrolment projection information at the public Board meetings in September 2024 when the rezoning of the Fleming Parcel came to the Board to pass the required VSB lease bylaw. The updated enrolment projections were not released by the VSB until June 16, 2025, which was about one month after the Approving Officer finalized the subdivision of the Fleming Parcel at the City. This sequence of events raises serious questions about the timing and transparency of the subdivision process. It calls into question why the VSB delayed the release of the enrolment projections until after steps were taken in respect of the Fleming Land Decisions.

3. For Auditor General (Carleton Parcel Subdivision):

The subdivision of the Carleton Parcel (SD-2022-00071) is currently under review by the City's Approving Officer. I respectfully request that the City Auditor General examine the process and criteria being applied under Subdivision By-law No. 5208 for the Carleton Parcel, using the similar issues identified at the above paragraphs 2 (i) through (iv) inclusive for the Fleming Parcel.

It is also noted that the VSB has initiated engagement to declare Carleton Elementary surplus to the needs of the district before releasing an updated Long-Range Facilities Plan and without incorporating updated TOA geographic data. This raises additional concerns regarding data currency and the s. 23 Charter Rights analysis in the decision-making process.

SUMMARY

Beyond the Fleming and Carleton matters, the considerations noted herein have implications for all City decisions involving public school lands or lands with current or potential educational use. To ensure consistency and avoid piecemeal non-compliance, the City's decisions relating to such land should: (i) rely on the latest enrolment/capacity projections based on Metro Vancouver youth population data; (ii) include written confirmation of consultation with both the VSB and the CSF under s. 562.1 of the *Vancouver Charter*; and (iii) provide a transparent s. 23 Charter Rights analysis, consistent with *CSF 2020 SCC 13* and *CSF 2025 BCSC 962*.

Thank you for your attention to and consideration of this matter. I look forward to your response regarding the matters outlined above at your earliest convenience.

Yours sincerely,



Melanie Cheng

