

**MINUTES OF THE
PLANNING & LAND USE COMMITTEE MEETING
HELD THURSDAY, FEBRUARY 19, 2015, 9:00 A.M.**

1. THE CHAIR CALLED THE MEETING TO ORDER AT 9:00 A.M.

Committee Members Present: Mayor Helps; Councillors Coleman, Isitt, Loveday, Lucas, Madoff, Thornton-Joe and Young

Absent: Councillor Alto

Staff Present: J. Johnson - City Manager; A. Hudson – Assistant Director, Community Planning; A. Meyer – Assistant Director, Development Services; B. Sikstrom – Senior Planner; J. Handy – Senior Planner; C. Wain – Planner; R. Woodland – Director, Legislative & Regulatory Services; J. Appleby - Recording Secretary.

Councillor Coleman advised he would be leaving the meeting at 10:30 a.m. for a Federation of Municipalities (FCM) Conference Call.

2. APPROVAL OF THE AGENDA

The Chair canvassed Committee who approved bringing forward the following items for approval:

- Item # 8 Development Permit Application No. 000400 for 2546 Government Street
- Item # 9 Development Permit with Variance Application No. 000403 for 450 Dallas Road
- Item # 10 Development Permit with Variances Application No. 000395 for 1961 Douglas Street

Action: It was moved by Councillor Isitt, seconded by Councillor Madoff, that the Agenda of the February 19, 2015, Planning & Land Use Committee meeting be approved as amended.

CARRIED UNANIMOUSLY 15/PLUC043

3. CONSENT AGENDA

3.1 Development Permit Application No. 000400 for 2546 Government Street

Committee received a report regarding a Development Permit Application for 2546 Government Street. The proposal is to construct an addition and porte-cochere to an automobile dealership.

Action: It was moved by Councillor Isitt, seconded by Councillor Madoff, that Committee recommends that Council authorize the issuance of Development Permit Application No. 000400 for 2546 Government Street, in accordance with:

1. Plans date stamped December 29, 2014.
2. Development meeting all Zoning Regulation Bylaw requirements.
3. Final plans to be generally in accordance with the plans identified above to the satisfaction of the Assistant Director, Development Services Division, Sustainable Planning and Community Development Department.

CARRIED UNANIMOUSLY 15/PLUC044

3.2 Development Permit with Variances Application No. 000403 for 450 Dallas Road

Committee received a report regarding a Development Permit with Variances Application for 450 Dallas Road. The proposal is to create an additional residential unit within an existing multi-unit building resulting in a one stall parking variance.

Action: It was moved by Councillor Isitt, seconded by Councillor Madoff, that Committee recommends that Council after giving notice and allowing an opportunity for public comment, consider the following motion:

“That Council authorize the issuance of Development Permit with Variances Application No. 000403 for 450 Dallas Road, in accordance with:

1. Plans date stamped January 21, 2015.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - a. Schedule C, Section 16.A.11(c) – Parking relaxed from one parking stall to zero parking stalls for the additional residential unit.
3. Final plans to be generally in accordance with the plans identified above to the satisfaction of the Assistant Director, Development Services Division, Sustainable Planning and Community Development Department.

CARRIED UNANIMOUSLY 15/PLUC045

3.3 Development Permit with Variances Application No. 000395 for 1961 Douglas Street

Committee received a report regarding a Development Permit with Variances Application for 1961 Douglas Street. The proposal is to construct a small addition to the existing hotel to create new office space and convert an existing office to a hotel room. Variances are required related to site coverage, landscaping, front yard setbacks and parking.

Action: It was moved by Councillor Isitt, seconded by Councillor Madoff, that Committee recommends that Council after giving notice and allowing an opportunity for public comment, consider the following motion:

“That Council authorize the issuance of Development Permit with Variances Application No. 000395 for 1961 Douglas Street, in accordance with:

1. Plans date stamped December 15, 2014.
2. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:
 - a. Section 5.1.6 – Site coverage increased from 30% to 67.80% (an increase of 0.23% above existing).
 - b. Section 5.1.8 – Open site space decreased from 30% to 8.04% (a decrease of 0.23% below existing).
 - c. Section 5.1.11 – Setback from north lot boundary (Discovery Street) reduced from 7.50m to 0.40m (existing).
3. Schedule C, Section 5(1) – Off-street parking requirement reduced from 49 stalls (48 stalls previously approved) to 48 stalls.
4. Final plans to be generally in accordance with the plans identified above to the satisfaction of the Assistant Director, Development Services Division, Sustainable Planning and Community Development Department.

CARRIED UNANIMOUSLY 15/PLUC046

4. ADOPTION OF MINUTES

Minutes from the meeting held February 5, 2015.

Action: It was moved by Councillor Madoff, seconded by Councillor Coleman, that the Minutes from the Planning & Land Use Committee meeting held February 5, 2015, be approved.

CARRIED UNANIMOUSLY 15/PLUC047

5. COMBINED DEVELOPMENT APPLICATIONS

5.1 Rezoning Application No. 00463 for 960-962 Yates Street

Committee received a report regarding Rezoning Application No. 00463 for 960-962 Yates Street. The proposal is to increase the density and authorize an eighteen-storey residential building with ground floor commercial space.

Committee discussed:

- The referral to the Advisory Design Panel and if that committee’s discussion is limited only to those areas specified in the recommendation.
- Concerns regarding the excavation and the impact on neighbouring properties.
- The land-lift analysis and if crime prevention could be included as part of the bonus density. Many owners within newer downtown buildings have complained of individuals climbing on their balconies.

Action: It was moved by Councillor Coleman, seconded by Councillor Thornton-Joe, that Committee recommends:

1. That Staff prepare the necessary *Zoning Regulation Bylaw Amendment* that would authorize the proposed development outlined in Rezoning Application No. 00463 for 960-962 Yates Street.
2. That first and second reading of the *Zoning Regulation Bylaw Amendment* be considered by Council.
3. That a Public Hearing date be set once legal agreements have been prepared to the satisfaction of the City Solicitor and the Assistant Director, Development Services Divisions, Sustainable Planning and Community Development Department, to ensure that future strata bylaws cannot prohibit strata owners from renting residential strata units.

CARRIED UNANIMOUSLY 15/PLUC048

5.2 Development Permit with Variances Application No. 000391 for 960-962 Yates Street

Committee received a report regarding Development Permit with Variances Application No. 000391 for 960-962 Yates Street. A variance is requested to reduce the number of parking spaces from 137 to 96.

Action:

It was moved by Councillor Coleman, seconded by Councillor Thornton-Joe, that Committee recommends that Council refer the Application to the Advisory Design Panel, with a request that the Panel pay particular attention to:

- a. The surface parking courtyard
- b. The residential entrance
- c. The design of the primary tower and the perceived massing of the upper storeys.

Following the referral, and after giving notice and allowing an opportunity for public comment and after the Public Hearing for Rezoning Application No. 00463, that Council consider the following motion:

"That Council authorize the issuance of Development Permit with Variances Application No. 000391 for 960-962 Yates Street, in accordance with:

1. Plans date stamped December 3, 2014.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - a. Schedule C, 7.2(g) - Required residential visitor parking is reduced from ten spaces to five.
 - b. Schedule C, 16.A. 12(c) - Required residential parking is reduced from 1.4 spaces per dwelling unit to 1 space per dwelling unit.
 - c. Schedule C, 16.C.4 - Required commercial parking is reduced from four spaces to two.
3. Final plans to be generally in accordance with the plans identified above to the satisfaction of the Assistant Director, Development Services Division, Sustainable Planning and Community Development Department."

CARRIED UNANIMOUSLY 15/PLUC049

5.3 Rezoning Application No. 00475 for 838 Fort Street

Committee received a report regarding Rezoning Application No. 00475 for 838 Fort Street. The proposal is to amend the existing CA-42 Zone (Harris Green Commercial District) to increase the floor area of an existing building and allow retail uses on the ground floor and offices above.

Committee inquired if it is possible for Council to waive a Public Hearing.

- Council may waive the Public Hearing as long as it is consistent with the Official Community Plan. There is still a requirement that signs and notification be posted and a hearing fee be paid.

Action: It was moved by Councillor Madoff, seconded by Councillor Loveday, that Committee recommends:

1. That Council instruct staff to prepare the necessary *Zoning Regulation Bylaw Amendment* that would authorize the proposed development outlined in Rezoning Application No. 00475 for 838 Fort Street.
2. That first and second reading of the *Zoning Regulation Bylaw Amendment* be considered by Council and a Public Hearing date be set.

CARRIED UNANIMOUSLY 15/PLUC050

5.4 Development Permit with Variances Application No. 000407 for 838 Fort Street

Committee received a report regarding Development Permit with Variances Application No. 000407 for 838 Fort Street. The proposal is to authorize renovations to an existing building to allow a street café and offices on the upper floors. The variances relate to the building's street frontage and front yard setback.

Action: It was moved by Councillor Madoff, seconded by Councillor Loveday, that Committee recommends that following the Public Hearing for the Rezoning; that Council consider the following motion:

"That Council authorize the issuance of Development Permit with Variances Application No. 000407 for 838 Fort Street, in accordance with:

1. Plans dated February 12, 2015.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - a. Section 6.55.2(1) - access to a building on the building street frontage is increased from 4.5m to 9.55m.
 - b. Section 6.55.2(2) - retail uses on the building street frontage are reduced from 75% to 45.5%.
 - c. Section 6.55.4 - front yard setback reduced from 3m to 1.18m.
3. Final plans to be generally in accordance with the plans identified above to the satisfaction of the Assistant Director, Development Services Division, Sustainable Planning and Community Development."

CARRIED UNANIMOUSLY 15/PLUC051

5.5 Official Community Plan Amendment Application, Development Permit with Variance Application No. 000356 and Heritage Alteration Permit Application No. 00180 for 251-259 Esquimalt Road

Committee received a report regarding an Official Community Plan Amendment Application, Development Permit with Variance Application No. 000356 and Heritage Alteration Permit Application No. 00180 for 251-259 Esquimalt Road.

Action: It was moved by Councillor Madoff, seconded by Councillor Loveday, that Committee recommends that Council amend the October 23, 2014, Council motion by adding the following consultation pertaining to the proposed Official Community Plan Amendment after Item 1.b.:

- c. Determine pursuant to Section 879(1) of the *Local Government Act*, that the affected persons, organizations and authorities are those property owners and occupiers within 200m of the subject properties and determine that the appropriate consultation measures would include mailed notice of the proposed OCP Amendment to the affected persons and posting of a notice on the City's website inviting affected persons, organizations and authorities to ask questions of staff and provide written or verbal comments to Council for their consideration.
- d. Determine pursuant to Section 879(2)(a) of the *Local Government Act*, that having regard to the previous Community Association Land Use Committee (CALUC) Community Meeting, the consultation proposed at this stage is an adequate opportunity for consultation.

CARRIED UNANIMOUSLY 15/PLUC052

5.6 Proposed Amendment to the Master Development Agreement (MDA) for 1952 Bay Street (Royal Jubilee Hospital)

Committee received a report regarding a proposed amendment to the Master Development Agreement (MDA) for 1952 Bay Street. The City has received a request from Island Health to extend the deadline for submission of a comprehensive Master Plan for the Royal Jubilee Hospital Campus and to allow the replacement of the existing hospital boiler plant. The proposal would require an amendment to Section 16 of the Master Development Agreement.

Committee questioned if the June 30, 2015, deadline for submission of a comprehensive Master Plan is realistic given that a Master Development Agreement amendment requires full public consultation including a public hearing.

- o Staff have questioned the timeline with Island Health and have received assurances that they are committed to the timeline. Staff advised that the MDA does not require a public hearing, as it is an agreement between Island Health and the City.

Action: It was moved by Councillor Coleman, seconded by Councillor Lucas, that Committee recommends:

1. That Council consider directing staff to prepare an amendment to Section 16 of the Master Development Agreement for the Royal Jubilee Campus, to the satisfaction of the Assistant Director, Development Services Division and the City Solicitor, that:
 - a. Extends the deadline for submission of a comprehensive Master Plan for the Campus to June 30, 2015.
 - b. Allows the construction of a replacement boiler plant prior to City Council approval of the comprehensive Master Plan for the Campus, subject to obtaining all necessary permits from the City.
2. That Council consider directing the Mayor and Corporate Administrator to execute the amendment to the Master Development Agreement and other instruments to effect its registration in the Land Title Office.

CARRIED UNANIMOUSLY 15/PLUC053

6. DEVELOPMENT APPLICATION REPORTS

6.1 2740 Richmond Road – Easement Over City Property

Committee received a report regarding an easement requested over City property at 2740 Richmond Road. The owner of the single family dwelling at 2732 Richmond Road is considering redeveloping the property and wishes to determine whether the City would grant an easement over its adjacent lot (2740 Richmond Road) in order to provide pedestrian and vehicular access to enable the proposed development.

Committee agreed to move in camera to discuss the subject property.

7. CLOSED MEETING AT 9:45 AM

- Action:** It was moved by Councillor Isitt, seconded by Councillor Young, that Planning and Land Use Committee convene a Closed meeting that excludes the public under Section 12(6) of the *Council Bylaw* for the reason that the following agenda items deal with matters specified in the *Council Bylaw*, namely:
- *Section 12(3)(e) – the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure might reasonably be expected to harm the interests of the City.*

CARRIED UNANIMOUSLY 15/PLUC054

Committee Members Present: Mayor Helps (Chair); Councillors Coleman, Isitt, Loveday, Lucas, Madoff, Thornton-Joe and Young.

Absent: Councillor Alto

Staff Present: J. Johnson – City Manager; A. Meyer – Acting Director of Sustainable Planning &

Community Development; N. Turner – Property Manager; R. Woodland – Director of Legislative & Regulatory Services; T. Zworski – City Solicitor; J. Appleby - Recording Secretary.

7.1 2740 Richmond Road – Easement Over City Property

Committee received information regarding 2740 Richmond Road.

The discussion and motion were recorded and kept confidential.

CARRIED UNANIMOUSLY 15/PLUC055

Action: It was moved by Councillor Coleman, seconded by Councillor Young, to adjourn the closed meeting at 10:03 a.m.

CARRIED UNANIMOUSLY 15/PLUC056

Committee reconvened in Council Chambers at 10:03 a.m.

2740 Richmond Road – Easement Over City Property

Committee discussed the need to be provided with additional information before making a final decision on the property.

Action: It was moved by Councillor Isitt, seconded by Councillor Madoff, that Committee postpone consideration of the motion for a maximum of two months.

CARRIED UNANIMOUSLY 15/PLUC057

8. CLOSED MEETING AT 10:08 AM

Action: It was moved by Mayor Helps, seconded by Councillor Coleman, that Planning and Land Use Committee convene a Closed meeting that excludes the public under Section 12(6) of the *Council Bylaw* for the reason that the following agenda items deal with matters specified in the *Council Bylaw*, namely:

- *Section 12(3)(i) - the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.*

CARRIED UNANIMOUSLY 15/PLUC058

Committee Members Present: Mayor Helps (Chair); Councillors Alto, Coleman, Isitt, Loveday, Lucas, Madoff, Thornton-Joe and Young.

Staff Present:

J. Johnson – City Manager; A. Hudson – Acting Director, Community Planning, Sustainable Planning & Community Development Department; R. Woodland – Director of Legislative & Regulatory Services; T. Zworski – City Solicitor; J. Appleby - Recording Secretary.

9. LEGAL UPDATE

Committee received information regarding a legal matter.

The discussion and motion were recorded and kept confidential.

Action: It was moved by Councillor Coleman, seconded by Councillor Young, to adjourn the closed meeting at 10:33 a.m.

CARRIED UNANIMOUSLY 15/PLUC059

Councillor Coleman left the meeting at 10:33 a.m.

Committee reconvened in Council Chambers at 10:34 a.m.

10. PROPERTY MAINTENANCE BYLAW HEARING 10:34 A.M.

10.1 Illegal Use and Work Without Permit for 315 Langford Street

Committee received a report regarding illegal use and work without permit for 315 Langford Street. This matter had been brought before Committee in May 2012 and May 2013 for consideration of placing a Notice on Title. The Committee had instructed staff to investigate and report back as to whether or not the use on the property (duplex with an additional dwelling) which violates the current *Zoning Regulation Bylaw* is a legal non-conforming use. This Report confirms that the use at the property does not comply with zoning regulations and has not complied with the City's zoning regulations since the time both the duplex and the additional dwelling at the rear of the property have all been used for residential purposes (dating back to the 1950's). While the property owner has resolved a number of plumbing and electrical safety issues identified during an inspection, he has failed to make application for any of the permits required to return the property to legal use or make an application to have the property rezoned. As a result, the Committee is being asked to make a final determination regarding the compliance of the property with the zoning regulations and ultimately determine whether or not to place a Notice on the Land Title pursuant to Section 57 of the *Community Charter*.

The Chair opened the hearing at 10:33 a.m.

The Chair explained the recommendation that was before Committee.

Recommendation: The Manager, Bylaw & Licensing (Building Inspector) recommends:

1. That the Committee determine that the use of the accessory building on the property at 315 Langford Street constitutes "unlawful use" and that permits are not in place to allow such use on the property and that Section 57(1)(b) applies to the property.
2. That the Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the property located at 315 Langford Street, legally described as Lot 127 Block Q Section 31 Esquimalt Plan 549, indicating that a resolution relating to this property has been made under the authority delegated pursuant to Section 57(3) of the *Community Charter* and the provisions of the Property Maintenance Delegation Bylaw, and advise that further information regarding this resolution may be inspected at the Legislative & Regulatory Services Department in Victoria City Hall.

The Chair asked if the property owner received a letter and report from the City in regards to this matter.

Rob Angus (Owner): Yes:

The Chair asked the City representative to give an opening statement and to present evidence.

M. Hayden (Manager, Bylaw & Licensing): The property at 315 Langford Street is located in the Victoria West neighbourhood in an R-2, Two Family Dwelling District. The approved use of the property per the approved building plans is "Duplex". The property was inspected on March 31, 2011, after it was reported that there appeared to be an illegal suite being rented in an accessory building. The inspection confirmed the existence of a self-contained dwelling unit. In addition, a number of plumbing and electrical safety issues were identified. The property owner was directed to make application for the required permits and complete the work required to correct deficiencies and return the property to its approved legal use and occupancy of a duplex (see attached letter dated May 10, 2011). The property owner did comply by obtaining permits and completing the work required to resolve the plumbing and electrical safety issues, however, he has failed to make application for any of the permits required to return the property to legal use - convert the secondary building from a dwelling unit back to the approved use as an "accessory building". Instead the owner contends that the current use of the property is the legal use as the secondary structure is and/or should be considered a legal non-conforming cottage. To that end, the property owner has submitted records, City of Victoria bylaws (dated building bylaws) and other material in two previous Planning and Land Use Committee meetings (Appendices G and H) to support his position that the extra self-contained dwelling unit located on the lot is legal non-conforming.

A Notice on Title is a low level compliance action and serves as a caution to those interested in purchasing the property. It does not compel the owner to bring the property into compliance. They believe from their evidence that this a non-compliant property and an application to put a Notice on Property would be an appropriate response to document this non-compliance.

The Chair asked the property owner if they have any questions of City staff.

Rob Angus (Owner): No

The Chair asked the property owner to present their evidence.

Rob Angus (Owner): Mr. Angus provided background information of the property and contended that there was a continued non-compliant use of the property.

When he attended the first hearing in May of 2013, he was able to show archival material that the use of the cottage on the property is a long term use dating back to the 1800's. There is a duplex on the property that was built in 1949 by permit. The cottage structure was taxed as early as 1895. Both the duplex and the cottage have their own sewer and water connections. He feels that no building permit was required for the cottage as it predated the bylaw.

The Chair asked the property owner to provide a closing statement.

Rob Angus (Owner): There has been a long standing use and the cottage has been a dwelling for many years.

M. Hayden (Manager, Bylaw & Licensing): City staff appear to have allowed the use during construction of the duplex but did not follow up after construction was completed. It is unfortunate, but it does not change the fact that the use is illegal, it was illegal in the 1950s and is still now illegal.

The Chair closed the hearing at 10:59 a.m.

Committee discussed:

- The Committee sits as a quasi-judicial body and needs to determine from the evidence provided whether the owner has proven the property is a legal non-conforming property.
- The need to bring closure to this matter in a fair and reasonable manner.

Action: It was moved by Councillor Isitt, to postpone consideration of this matter for two weeks so that Committee may receive additional information.

Motion failed due to no seconder

Action: It was moved by Councillor Madoff, seconded by Councillor Loveday, that Committee adjourn the Planning & Land Use Committee at 11:12 a.m.

CARRIED UNANIMOUSLY 15/PLUC060

Action: It was moved by Councillor Isitt, seconded by Councillor Loveday, that Committee convene the Special Council Meeting of February 19, 2015, at 11:13 a.m.

CARRIED UNANIMOUSLY 15/PLUC061

Committee reconvened the Planning & Land Use Committee meeting at 11:14 a.m.

Committee discussed:

- If the property is provided with a legal non-conforming status, there is nothing that precludes this matter coming before Committee again if new evidence is found or the continual use ceases for six months.
- If there is an impact to the neighbours. The duplex has been there for 65 years and the secondary building has been there longer than that. It is not a new impact on the neighbours. The building may be refurbished but the impact will remain as it was.

Action: It was moved by Councillor Young, seconded by Councillor Isitt, that as of February 19, 2015, the property located at 315 Langford Street, legally described as Lot 127 Block Q Section 31 Esquimalt Plan 549, is a legal non-conforming property.

CARRIED UNANIMOUSLY 15/PLUC062

Action: It was moved by Councillor Isitt, seconded by Councillor Loveday, that Committee adjourn the Planning & Land Use Committee meeting of February 19, 2015, at 11:22 a.m.

CARRIED UNANIMOUSLY 15/PLUC063

Mayor Helps, Chair