

**MINUTES OF THE
PLANNING & LAND USE COMMITTEE MEETING
HELD THURSDAY, OCTOBER 2, 2014, 9:00 A.M.**

1. THE CHAIR CALLED THE MEETING TO ORDER AT 9:01 A.M.

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

Staff Present: J. Johnson – City Manager; D. Day – Director, Department of Sustainable Planning & Community Development; A. Meyer – Assistant Director, Development Services; A. Hudson – Assistant Director of Community Planning; R. Batallas – Senior Planner; H. Cain – Senior Planner; J. Handy – Planner; C. Wain – Planner; M. Wilson – Planner; R. Woodland – Director, Legislative & Regulatory Services; A. Ferguson – Recording Secretary.

2. APPROVAL OF THE AGENDA

Committee considered the following amendment to the Agenda:

- Item #1 - Additional correspondence regarding Rezoning Application #00453 and Development Permit Application #000374 for 1521 & 1531 Elford Street.

Committee discussed Item #5 and the Mayor's recommendation of postponing this item.

Action: It was moved by Mayor Fortin, seconded by Councillor Alto, that the Agenda of the October 2, 2014, Planning & Land Use Committee meeting be approved as amended.

CARRIED UNANIMOUSLY 14/PLUC0238

Councillor Isitt joined the meeting at 9:05 a.m.

3. CONSENT AGENDA

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

- Item # 4 – Development Permit Application #000386 for 353 Tyee Road

3.1 353 Tyee Road – Request to Maintain Occupancy of a Building during Development Permit Approval Process

Committee received a report dated September 10, 2014, regarding an application by Dockside Green Ltd. to waive the Clean Hands Policy to maintain building occupancy for an existing building located at 353 Tyee Road. The existing building was established as a construction trailer and was later converted to an office building.

The City does not require Development Permits or Building Permits for construction trailers and it is expected that trailers be removed within six months of obtaining an Occupancy Permit for the building under construction. At some point in the past, the construction trailer was converted from a construction office to general office space. In 2014, the trailer was moved and a significant amount of exterior work was carried out without Development Permit or Building Permit approvals.

Action: It was moved by Councillor Young, seconded by Councillor Alto, that Committee recommends that Council waive the Clean Hands Policy for Planning Approvals requirement to vacate the building located at 353 Tyee Road.

CARRIED UNANIMOUSLY 14/PLUC0239

4. ADOPTION OF MINUTES

Action: It was moved by Councillor Helps, seconded by Councillor Alto, that Committee approve the minutes from the Meeting held September 18, 2014.

CARRIED UNANIMOUSLY 14/PLUC0240

Action: It was moved by Councillor Helps, seconded by Councillor Thornton-Joe, that Committee move Item #5 forward.

CARRIED UNANIMOUSLY 14/PLUC0241

3.2 Harbour Vitality Principles

Committee discussed the possibility of postponement:

- First Nations and the Provincial Government would like to have a conversation with the City to provide input on the principles.
- An assurance that this matter will be placed on the meeting agenda before Councils term is up.
- The revised document is available to the public with sufficient time for comment.

Action: It was moved by Mayor Fortin, seconded by Councillor Coleman, that Committee recommends that Council postpone Item #5 – Harbour Vitality Principles.

CARRIED UNANIMOUSLY 14/PLUC0242

5. DECISION REQUEST

5.1 Official Community Plan Amendment, Rezoning Application #00453 and Development Permit Application #000374 for 1521 and 1531 Elford Street

Committee received a report dated September 18, 2014 which provided Committee with information, analysis and recommendations regarding a request for an *Official Community Plan* (OCP) amendment, a Rezoning Application and a Development Permit Application for the properties located at 1521-1531 Elford Street. The proposal is for a new four-storey, 32-unit apartment building with a floor space ratio (FSR) of 1.45:1.

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

1. That Council direct staff to prepare the *Zoning Regulation Bylaw* amendment that would authorize the proposed development outlined in Rezoning Application #00453 for 1521-1531 Elford Street, subject to:
 - a. Referral to Advisory Design Panel with direction for attention to the transition to the adjacent house and park and overall street appearance;
 - b. Completion of a Third-Party Land Lift Analysis to be conducted by a consultant, agreed to by the City and paid for by the applicant, to establish the value of any increase in density that exceeds the floor space ratio of 1:1 FSR for that portion of the development located on the property at 1531 Elford Street, with a contribution of 75% of the value to the Parks and Greenways Acquisition Reserve Fund, secured to the satisfaction of the City Solicitor and Director of Sustainable Planning and Community Development;
 - c. Registration of the following:
 - i. Housing Agreement ensuring that future strata bylaws cannot prohibit strata owners from renting residential strata units, to the satisfaction of the City Solicitor and Director of Sustainable Planning and Community Development,
 - ii. Section 219 Covenant to secure six new Garry Oak trees in Stadacona Park to the satisfaction of the City Solicitor and Director of Parks, Recreation and Culture,
 - iii. Section 219 Covenant for sewage attenuation, as required, to the satisfaction of the City Solicitor and Director of Engineering and Public Works,
 - iv. Statutory Right-of-Way of 2.4 m along Pandora Avenue to the satisfaction of the City Solicitor and Director of Engineering and Public Works.
2. That Council direct staff to prepare the necessary *Official Community Plan* Amendment Bylaw and that concurrent with the Rezoning Application advance to a Public Hearing:

- a. That Council gives first reading to the *Official Community Plan* Amendment Bylaw;
 - b. That Council consider the *Official Community Plan* Bylaw, Amendment Bylaw in conjunction with the *City of Victoria 2012-2016 Financial Plan* and the *Capital Regional District Liquid Waste Management Plan* and *Capital Regional District Solid Waste Management Plan* pursuant to section 882(3)(a) of the *Local Government Act* and deem those plans to be consistent with the proposed *Official Community Plan* Amendment Bylaw;
 - c. That Council consider consultation under section 879(2) of the *Local Government Act* and determine that no referrals are necessary with the Capital Regional District Board; Councils of Oak Bay, Esquimalt and Saanich; the Songhees and Esquimalt First Nations; the School District Board; and the provincial and federal governments and their agencies due to the nature of the proposed amendments;
 - d. That Council give second reading to the *Official Community Plan Amendment Bylaw*;
 - e. That Council refer the *Official Community Plan Amendment Bylaw* for consideration at a Public Hearing.
3. Following consideration of the *Official Community Plan Amendment Bylaw* and Rezoning Application #00453, that Council approve a Development Permit for 1521-1531 Elford Street, in accordance with:
- a. Plans for Rezoning Application #00453 and Development Permit Application #000374, stamped July 30, 2014;
 - b. Development meeting all *Zoning Regulation Bylaw* requirements;
 - c. Final plans to be generally in accordance with plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development;
 - d. Council approval of any necessary encroachment agreements to the satisfaction of the City Solicitor, Director of Engineering and Public Works and the Director of Parks, Recreation and Culture, prior to the issuance of a Building Permit.

CARRIED 14/PLUC0243

For: Mayor Fortin, Councillors Alto, Coleman, Helps, Thornton-Joe
Against: Councillors Gudgeon, Isitt, Madoff, Young

Committee discussed:

- If further revisions could be made to reduce tree loss in Stadacona Park. Whether revisions to save trees will lead to a larger parking variance.
- Concerns on how this proposal is going to impact the park.
- Evidence to support the argument that the current buildings were beyond repair.

- The CALUCs concerns regarding the impact on the park and how this proposal will impact the street.
- Concerns regarding the removal of trees both on private and park land, and how the applicant will be planting new trees.
- Whether the proposal is ready for Advisory Design Panel.
- How urban parks can benefit from urban development. As it can increase public use in the park.
- Whether the proposal could fit better in its context.
- The meaning of Traditional Residential and whether this is the ideal project to be surrounding the park.

Action: It was moved by Councillor Thornton-Joe, seconded by Councillor Madoff, that Committee amend the recommendation as follows:

1. That Council direct staff to prepare the *Zoning Regulation Bylaw* amendment that would authorize the proposed development outlined in Rezoning Application #00453 for 1521-1531 Elford Street, subject to:
 - a. Referral to Advisory Design Panel with direction for attention to the transition to the adjacent **heritage registry** house and park and overall street appearance;
 - b. Completion of a Third-Party Land Lift Analysis to be conducted by a consultant, agreed to by the City and paid for by the applicant, to establish the value of any increase in density that exceeds the floor space ratio of 1:1 FSR for that portion of the development located on the property at 1531 Elford Street, with a contribution of 75% of the value to the Parks and Greenways Acquisition Reserve Fund, secured to the satisfaction of the City Solicitor and Director of Sustainable Planning and Community Development;
 - c. Registration of the following:
 - i. Housing Agreement ensuring that future strata bylaws cannot prohibit strata owners from renting residential strata units, to the satisfaction of the City Solicitor and Director of Sustainable Planning and Community Development,
 - ii. Section 219 Covenant to secure six new Garry Oak trees in Stadacona Park to the satisfaction of the City Solicitor and Director of Parks, Recreation and Culture,
 - iii. Section 219 Covenant for sewage attenuation, as required, to the satisfaction of the City Solicitor and Director of Engineering and Public Works,
 - iv. Statutory Right-of-Way of 2.4 m along Pandora Avenue to the satisfaction of the City Solicitor and Director of Engineering and Public Works.
2. That Council direct staff to prepare the necessary *Official Community Plan* Amendment Bylaw and that concurrent with the Rezoning Application advance to a Public Hearing:
 - a. That Council gives first reading to the *Official Community Plan* Amendment Bylaw;

- b. That Council consider the *Official Community Plan* Bylaw, Amendment Bylaw in conjunction with the *City of Victoria 2012-2016 Financial Plan* and the *Capital Regional District Liquid Waste Management Plan* and *Capital Regional District Solid Waste Management Plan* pursuant to section 882(3)(a) of the *Local Government Act* and deem those plans to be consistent with the proposed *Official Community Plan* Amendment Bylaw;
 - c. That Council consider consultation under section 879(2) of the *Local Government Act* and determine that no referrals are necessary with the Capital Regional District Board; Councils of Oak Bay, Esquimalt and Saanich; the Songhees and Esquimalt First Nations; the School District Board; and the provincial and federal governments and their agencies due to the nature of the proposed amendments;
 - d. That Council give second reading to the *Official Community Plan Amendment Bylaw*;
 - e. That Council refer the *Official Community Plan Amendment Bylaw* for consideration at a Public Hearing.
3. Following consideration of the *Official Community Plan Amendment Bylaw* and Rezoning Application #00453, that Council approve a Development Permit for 1521-1531 Elford Street, in accordance with:
- a. Plans for Rezoning Application #00453 and Development Permit Application #000374, stamped July 30, 2014;
 - b. Development meeting all Zoning Regulation Bylaw requirements;
 - c. Final plans to be generally in accordance with plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development;
 - e. Council approval of any necessary encroachment agreements to the satisfaction of the City Solicitor, Director of Engineering and Public Works and the Director of Parks, Recreation and Culture, prior to the issuance of a Building Permit.

On the amendment:
CARRIED UNANIMOUSLY 14/PLUC0244

On the main motion:
CARRIED 14/PLUC0245

For: Mayor Fortin, Councillors Alto, Coleman, Helps, Thornton-Joe
Against: Councillors Gudgeon, Isitt, Madoff, Young

5.2 Official Community Plan Amendment, Rezoning Application # 00446 and Development Permit Application # 000365 for 2328 Richmond Road

Committee received a report dated September 18, 2014 that provided information, analysis and recommendations regarding and *Official Community Plan* (OCP) Amendment, Rezoning Application and Development Permit Application for the property located at 2328 Richmond Road. The proposal is to allow a 12 unit residential development.

Action: It was moved by Councillor Gudgeon, seconded by Councillor Isitt, that Committee recommends that Council decline this *Official Community Plan* Amendment and Rezoning Application #00446 for 2328 Richmond Road.

CARRIED UNANIMOUSLY 14/PLUC0246

Committee discussed:

- Whether the parking variance requested is too extreme for this area.
- The practicality of the car share amenity given limited on-street parking.
- Land assembly as a better outcome.
- The design of the proposed building.
- Concerns on shadowing from the adjacent hospital.
- Whether the building is keeping with the Traditional Residential as desired by OCP; not a good transition from the hospital's massing.
- That there needs to be some anticipation of future development for this area as a transition from the hospital.
- The impact to having affordability of higher density building with underground parking.
- The constraint of such a small site.

Committee Recessed at 10:14 a.m.

Committee Reconvened at 10:19 a.m.

5.3 Delegation of Development Permits and Heritage Alteration Permits

Committee received a report dated September 4, 2014 that provided Committee with an introduction, as well as further analysis, regarding a workshop which will explore the potential delegation of Development Permit (DP) and Heritage Alteration Permit (HAP) Applications to staff for decision.

Committee discussed the proposed procedures of the delegation proposal:

9. The Director has the discretion to refer applications to Council.
 - Concerns on how discretion will be used from application to application.
 - Concerns on how to explain to the public how this discretion is exercised.
 - Council's confidence in the Director to pull applications that fit all criteria; dealing with unexpected issues.

Mayor Fortin requested that Committee indicate their support for item #9. All Committee were in support of this direction.

8. Applications where the recommendation is to be decline are referred to Council.
 - How the public would be engaged?

Mayor Fortin requested that Committee indicate their support for item #8. Councillor Madoff was not supportive of this direction.

7. Applications where there is an associated bylaw that needs to be approved. Also Applications that would propose an amendment to or the discharge of a Master Development Agreement, Section 219 Covenant or any other legal agreement will be referred to Council.
 - Rezoning should go to Council and DP can be delegated as long as they are simple.
 - Rezoning and DP applications are preferred together, but are not required to be concurrent.
 - The new delegation process would refer Heritage Alteration Permits that require a Revitalization Agreement to Council.
 - That the bylaws and policies need to be reviewed prior to making a decision on delegation.
 - The need for more concrete examples in the appendices.
 - How the existing zoning on the property takes precedent over the OCP's guidelines.

Mayor Fortin requested that Committee indicate their support for item #7. All Committee members were in support of this direction.

11. Applications proposing temporary construction trailers will be delegated to staff.
 - The only risk is when the trailers become permanent on the site. Staff will look into having a legal agreement to be sure they are removed.
 - The need for trailers to be removed immediately after development authorized.
 - Clarification on the removal procedures of temporary trailers, and standards for how trailers are maintained by developers.
 - Whether sales offices are also captured under this delegation rule?
 - When does the City remediate a public-right-of-way when a project is abandoned?

Mayor Fortin requested that Committee indicate their support for item #11. All Committee members were in support of this direction.

10. Applications that are renewed, prior to lapsing, where the policy and plans are the same as before can be delegated to staff. This includes applications with variances.
 - Concerns around having applications with minor changes being delegated to staff. Some councillors feel that the application needs to be referred if there are any changes.
 - Concern if the proposal reduces the incentive to start the project.
 - Whether lists of delegated applications need to be available to the public so Council can ask to have applications referred.
 - That there are no new variances in the application.

- Concerns that a new Council member may have different opinions on applications that were approved in the previous term.

Mayor Fortin requested that Committee indicate their support for item #10. All Committee members were in support of this direction.

3. Any Council member can request to have an application referred within one week of receiving notice that an application has been delegated. Bi-weekly lists of delegated applications would be provided to Council.
 - Concerns that one Council member can override the majority; there needs to be a minimum of two or more Council members to refer applications.
 - Establishing a timeline to refer an application as engaging with the community and fellow Councillors can take time.
 - Concerns that it may politicize the entire process, and erode the delegation.
 - Having applications referred by Council is likely to be a rare occurrence; however, the policy could be reconsidered if the override of delegated authority is being over used.
 - That full staff reports should not be required if the recommendation is to decline.
 - All conversations regarding referring a proposal need to be public.
 - The lists of delegated applications could be added to the PLUC agenda.
 - Support the need for amendments to both policies and bylaws to pass this motion.
 - That the public will need the opportunity to speak to the delegation proposal.

Action: It was moved by Councillor Young, seconded by Councillor Thornton-Joe, that Committee directs staff to provide a list of proposed delegations, that within 10 days any Councillor may give a notice of motion, motion being that the item not be delegated but instead go through the full process and that motion to be debated at the next subsequent Planning and Land Use Meeting.

CARRIED UNANIMOUSLY 14/PLUC0247

Action: It was moved by Councillor Isitt, seconded by Councillor Madoff, that the motion be amended:
That Committee directs **staff to provide the list on the agenda for the Planning And Land Use Committee Meeting** of proposed delegations, that within 10 days any Councillor can give a notice of motion, motion being that the item not be delegated but instead go through the full process and that motion to be debated at the next subsequent Planning and Land Use Meeting be amended

On the amendment:
CARRIED UNANIMOUSLY 14/PLUC0248

Discussion on the main motion:

- The 10 days in the original motion is no longer valid with the amended motion.

Action: It was moved by Councillor Helps, that the motion be amended to strike the 10 day provision.

MOTION FAILED DUE TO NO SECONDER 14/PLUC0249

Discussion on the main motion:

- That every two weeks a list would be provided on the agenda.
- Concerns that staff will be drafting reports in anticipation that a proposal might be pulled.

Action: It was moved by Councillor Helps, seconded by Councillor Alto, that the motion be amended to consider this process on a pilot basis for a period of one year.

DEFEATED 14/PLUC0250

For: Councillor Gudgeon, Helps
Against: Mayor Fortin, Councillor Alto, Coleman, Isitt, Madoff, Thornton-Joe, Young

Discussion on the motion:

- As this requires a bylaw amendment some members feel that this needs to be tested before there are unexpected implications.
- Can they institute a practice as opposed to a bylaw?
- That the whole delegation is included in the pilot not just this particular one.
- This pilot is to test the way the delegation is done not to test if it should be done.

Committee discussed postponing this item to the next meeting:

- That staff need to take Councils' discussion into consideration and return with a revised workshop to explore the potential delegation of Development Permit (DP) and Heritage Alteration Permit (HAP) Applications to staff for decision.
- Concerns that there is not enough consensus to provide staff with direction to come back with a workable revision.
- Before staff are sent back to make revisions to this delegation proposal they need to finish discussing all the topics.

Action: It was moved by Councillor Helps, seconded by Councillor Alto, that the motion be amended:

That Committee directs staff to provide the list on the agenda for the Planning And Land Use Committee Meeting of proposed delegations, that within 10 days any Councillor can give a notice of motion, motion being that the item not be delegated but instead go through the full process and that motion to be debated at the next subsequent Planning and Land Use Meeting. **Staff are to provide a list with the PLUC agenda of the delegated applications. Council has the opportunity to refer the application at the time of receiving the Agenda at the PLUC meeting and again at the Council meeting.**

On the amendment:
CARRIED UNANIMOUSLY 14/PLUC0251

On the main motion:
CARRIED 14/PLUC0252

Action: It was moved by Councillor Isitt, seconded by Councillor Alto, that staff report back in one year on the delegation.

CARRIED UNANIMOUSLY 14/PLUC0253

Discussion on the motion:

- If member wishes to pull an application from the delegation list is Council required to decide the same day the agenda is published?

Action: It was moved by Mayor Fortin, seconded by Councillor Alto, that an application is to be pulled from delegation on the day the agenda is published.

CARRIED UNANIMOUSLY 14/PLUC0254

Further discussion:

- When does the notice of motion need to be submitted?
- If the proposal was not pulled at the Planning and Land Use Committee then there is also a chance to pull at the Council meeting.
- There needs to be more clarity on the timeline so staff are clear when an application has not been referred.
- Everyone needs to be aware in advance that there is going to be a challenge to the delegation.
- The notice of motion needs to be given at the meeting with the list so that the motion can be discussed at the subsequent meeting.

The Committee noted that this delegation proposal should be adjourned to allow staff to work through some of the implications of today's direction. There are a number of items that still need to be discussed with Council before public feedback is sought.

5. ADJOURNMENT

Action: It was moved by Councillor Helps, seconded by Councillor Coleman, that Committee adjourn the Planning & Land Use Committee meeting of October 2, 2014, at 12:19 p.m.

CARRIED UNANIMOUSLY 14/PLUC0255

Mayor Fortin, Chair