

**MINUTES OF THE  
PLANNING & LAND USE COMMITTEE MEETING  
HELD THURSDAY, AUGUST 21, 2014, 9:00 A.M.**

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

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

**Absent:** Mayor Fortin

**Staff Present:** J. Jenkyns – Acting City Manager; D. Day – Director, Sustainable Planning & Community Development; A. Meyer – Assistant Director, Development Services; A. Hudson – Assistant Director of Community Planning; H. Cain – Senior Planner; J. Handy – Planner; M. Miller – Planner; B. Sikstrom – Senior Planner; C. Wain – Planner; M. Wilson - Planner; R. Woodland – Director, Legislative & Regulatory Services; J. Appleby - Recording Secretary.

**2. APPROVAL OF THE AGENDA**

Committee considered the following amendment to the Agenda:

- Item # 2 - Additional correspondence regarding Rezoning Application # 00405, 2921, 2923 and 2927 Shelbourne Street.

**Action:** It was moved by Councillor Helps, seconded by Councillor Alto, that the Agenda of the August 21, 2014, Planning & Land Use Committee meeting be approved as amended.

CARRIED UNANIMOUSLY 14/PLUC0183

**3. CONSENT AGENDA**

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

- Item # 6 – Development Variance Permit Application # 00134 for 2640 Forbes Street
- Item # 7 – Development Variance Permit Application # 000136 for 125 Moss Street
- Item # 8 – Development Permit with Variances Application # 000366 for 105-230 Cook Street
- Item # 9 – Development Permit with Variance Application # 000352 for 2353 Douglas Street

- Item # 14 – Request to Waive Council’s Clean Hands Policy for Site Office Building at 80 Sagahlie Road

### **3.1 Development Variance Permit Application # 00134 for 2640 Forbes Street**

Committee received a report regarding Development Variance Permit Application for 2640 Forbes Street. The application is to vary the side yard setbacks and the size of an addition to allow a secondary suite in the R1-B Zone, Single Family Dwelling District.

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

1. That Council schedule a Hearing to consider Development Variance Permit Application # 00134 for 2640 Forbes Street.
2. Following the Hearing, that Council consider passing the following resolution:

That Council authorize the issuance of Development Variance Permit # 00134 subject to:

- a. Plans dated June 4, 2014, for Development Variance Permit Application # 00134.
- b. The development meeting all Zoning Regulation Bylaw requirements, except for the following:
  - i. Part 1.2, Section 1.2.5.c – Side yard setback (south) reduced from 1.52m to 0.65m.
  - ii. Part 1.2, Section 1.2.5.d – Combined side yard setbacks relaxed from 4.50m to 3.55m.
  - iii. Schedule J – to allow changes to the exterior of the building within a five-year period prior to the installation of a secondary suite.
  - iv. Section 2.a – Additional floor area relaxed from 20m<sup>2</sup> maximum to 33m<sup>2</sup>.
- c. Final plans to be generally in accordance with the plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development.

CARRIED UNANIMOUSLY 14/PLUC0184

### **3.2 Development Variance Permit Application # 000136 for 125 Moss Street**

Committee received a report regarding Development Variance Permit Application for 125 Moss Street. The application is to relocate the rear deck staircase, remove an existing accessory building and allow one parking stall to be located in the front yard.

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

1. That Council schedule a Hearing to consider Development Variance Permit # 000136 for 125 Moss Street.

2. Following the Hearing, that Council consider passing the following resolution to authorize the Development Variance Permit # 000136, subject to:
  - a. Plans dated July 30, 2014, for Development Variance Permit # 000136.
  - b. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following:
    - i. Section 1.2.5.c – Side yard setback (north) relaxed from 3.0m to 1.66m.
    - ii. Section 1.2.5.d – Combined side yard setbacks relaxed from 4.5m to 3.63m.
    - iii. Schedule “C” Section 3 – Relaxation to permit required parking in the front yard.
  - c. Final plans to be generally in accordance with the plans identified above, to the satisfaction of the Director of Sustainable Planning and Community Development.

CARRIED UNANIMOUSLY 14/PLUC0185

### **3.3 Development Permit with Variances Application # 000366 for 105-230 Cook Street**

Committee received a report regarding Development Permit with Variances for 105-220 Cook Street. The applicant proposes to increase the seating in the existing restaurant from 30 seats to 60 seats. The applicant further proposes a reduction in the required number of parking stalls.

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

1. That Council schedule a Hearing to consider Development Permit with Variances # 000366 for 105-220 Cook Street.
2. Following the Hearing, that Council consider passing the following resolution to authorize the Development Permit with Variances, subject to:
  - a. Plans stamped July 29, 2014, Development Permit with Variances # 000366.
  - b. Development meeting all Zoning Regulation Bylaw requirements, except for the following:
    - i. Schedule C.16.C.12 – Required parking is reduced from 12 stalls to 5 stalls.
  - c. Final plans to be in accordance with the plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development.

CARRIED UNANIMOUSLY 14/PLUC0186

### **3.4 Development Permit with Variances Application # 000352 for 2353 Douglas Street**

Committee received a report regarding Development Permit with Variances Application for 2353 Douglas Street. The proposal is to replace a vacant warehouse/retail building with a service station specializing in oil changes. The proposal also includes the closure of two driveways on Douglas Street as well as the acquisition of a portion of a City lane off of Field Street for improved access. A

variance is requested to substitute a trellis with climbing vines for a required landscape strip on the eastern property boundary.

- Action:** It was moved by Councillor Helps, seconded by Councillor Thornton-Joe, that Committee recommends that Council consider passing the following resolution to authorize the issuance of Development Permit Application # 000352 for 2353 Douglas Street in accordance with and subject to:
1. Plans date stamped May 8, 2014, and June 4, 2014.
  2. Development meeting all Zoning Regulation Bylaw requirements with the following variance:
    - a. Schedule "C", Section 7.2 (h) relaxation of the width of landscaped area requirement from 0.60 to Nil for a trellis and climbing vines.
  3. Final plans to be generally in accordance with the plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development.
  4. Compliance with the Ministry of Environment's *Environmental Management Act* as it pertains to potentially contaminated sites.
  5. Successful acquisition by the applicant of a portion of the lane off Field Street.

CARRIED UNANIMOUSLY 14/PLUC0187

### **3.5 Request to Waive Council's Clean Hands Policy for Site Office Building at 80 Sagahlie Road**

- Action:** It was moved by Councillor Helps, seconded by Councillor Thornton-Joe, that Committee recommends that Council waive the Clean Hands Policy with respect to illegal construction and illegal occupancy for the building located at 80 Sagahlie Road.

CARRIED UNANIMOUSLY 14/PLUC0188

## **4. ADOPTION OF MINUTES**

### **4.1 Minutes of the Meeting held July 17, 2014.**

Councillor Alto noted the following correction to the minutes:

In Item #1 Remove:

Absent for a Portion of the Meeting: Mayor Fortin, Councillors Alto, Coleman, Helps and Isitt

- Action:** It was moved by Councillor Alto, seconded by Councillor Gudgeon, that the Minutes from the Planning & Land Use Committee meeting held July 17, 2014, be approved as amended.

CARRIED UNANIMOUSLY 14/PLUC0189

## **5. DECISION REQUEST**

### **5.1 Rezoning Application # 00405 for 2921, 2923 and 2927 Shelbourne Street**

Committee received a report regarding a Rezoning Application for 2921, 2923 and 2927 Shelbourne Street. The proposal is to rezone two lots from the R1-B Zone, Single Family Dwelling District, to the RK-6 Zone, Shelbourne Townhouse District, to permit the construction of an eight-unit townhouse development.

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

1. a. That Council instruct City Staff to prepare the necessary *Zoning Regulation Bylaw* amendments that would authorize the proposed development outlined in the Rezoning Application #00405 for 2921, 2923 and 2927 Shelbourne Street.
- b. That Council consider giving first and second reading to this bylaw amendment after the bylaws have been drafted.
- c. That Council schedule a Public Hearing after the bylaw has received first and second reading, subject to submission of a Development Permit Application with refinements to the Shelbourne Street elevation, to the satisfaction of the Director of Sustainable Planning and Community Development.
2. Following consideration of Rezoning Application #000405, that Council consider authorizing the issuance of the concurrent Development Permit Application in accordance with:
  - a. Revised plans showing refinements to the Shelbourne Street elevation;
  - b. Development meeting all *Zoning Regulation Bylaw* requirements of the RK-6 Zone Shelbourne Townhouse District, except for:
    - i. Section 2.60.3 - Number of storeys relaxed from 2.5 maximum to 3,
    - ii. Section 2.3.14(c) - Side yard setback relaxed from 7.5 m for living rooms (Building A - north) to 4.59 m and (Building B - south) to 4.59 m,
    - iii. Section 2.3.17 - Separation space between Building A and Building B relaxed from 8.0 m to 7.8 m,
    - iv. Section 2.3.18(1) - Height for Building B relaxed from 8.5 m to 8.8 m to upper ceiling,
    - v. Section 2.3.19 - Third storey floor area relaxed from 60% of other floors to 100% (full third floor level) for Buildings A, B and C.
  - c. Final plans to be to the satisfaction of the Director of Sustainable Planning and Community Development.

Committee discussed:

- Correspondence has been received addressing concerns about the impact of the south elevation and if staff could request that the applicant address this item when it comes to Public Hearing.
- Shelbourne Street is classified as a secondary arterial where multi-family residential developments are supportable. There will be similar applications coming forward and this will have an impact on the immediate neighbourhood which also includes residents in the bordering area of Saanich. It was questioned if those neighbours have an opportunity to provide feedback?
  - Saanich residents are invited to provide comment through the community consultation and are also advised of any Public Hearings where they are invited to attend.
- Landscaping and will the strata be responsible for this?

- Landscaping would have to comply with the bylaws, once the strata corporation is created and have their own bylaws, we do not have any jurisdiction and very little input.
- A number of green features have been proposed. A rain garden and permeable driveway have been considered along with retention of rain water to be used for gardening purposes.
- Concerns about the height of the building and if there has been a variance requested?
  - Townhouses are treated differently when height is considered. It provides applicants the ability to incorporate different roof lines with some flexibility to height.

CARRIED UNANIMOUSLY 14/PLUC0190

## 5.2 Rezoning Application # 00448 and Development Permit Application for 508 Springfield Street

Committee received a report regarding a Rezoning Application and Development Permit Application for 508 Springfield Street. The application is to rezone the property from the R1-B Zone, Single Family Dwelling District to the R1-B-GS2 Zone, Single Family Dwelling with Garden Suite District in order to permit the construction of a garden suite.

The proposal is consistent with the Traditional Residential Urban Place Designation in the *Official Community Plan 2012 (OCP)* and related objectives for sensitive infill in Development Permit Area 15E Intensive Residential Garden Suites and the proposed design and siting of the garden suite is consistent with the *Garden Suite Policy, 2011*.

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

1. That staff be instructed to prepare the necessary *Zoning Regulation Bylaw* amendment that would authorize the proposed development outlined in Rezoning Application # 00448 for 508 Springfield Street.
2. That Council consider giving first and second reading to the *Zoning Regulation Bylaw* amendment after the bylaws have been drafted.
3. That Council schedule a Public Hearing after the *Zoning Regulation Bylaw* amendment has received first and second reading.
4. Following the Hearing and subject to adoption of the Zoning Regulation Bylaw amendments for 508 Springfield Street, that Council consider the issuance of the Development Permit generally in accordance with:
  - a. Plans for Development Permit Application # 000448, stamped July 18, 2014, and the development meeting all *Zoning Regulation Bylaw* requirements.
  - b. Final plans to be generally in accordance with plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development.

Committee discussed:

- That the City could potentially see problems with the size of garden suites with the larger lots, there could be tension created in the neighbourhoods.
- Council is typically very conservative when it comes to approving garden suites. It is the perfect way to densify communities but there will always a certain level of contentiousness.
- Council maintains the authority to approve garden suite applications on a case by case basis. It is important to note that not all applications are a good fit for the lot and the neighbourhood.
- If a shadow study could be provided when the application is before the public hearing.

CARRIED UNANIMOUSLY 14/PLUC0191

### 5.3 Rezoning Application # 00429 and Development Permit with Variances for 605-607 Cornwall Street

Committee received a report regarding a Rezoning Application and Development Permit with Variances for 605-607 Cornwall Street. The application is to rezone the property from the R1-B Zone (Single Family Dwelling District) to the R1-S2 Zone (Restricted Small Lot Two Storey District) and to construct two new small-lot houses, which also require a Development Permit with Variances.

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

1. a. That Council instruct staff to prepare the necessary *Zoning Regulation Bylaw* amendment that would authorize the proposed development outlined in Rezoning Application # 00429 for 605-607 Cornwall Street.
- b. That Council consider giving first and second reading to the bylaw amendment after the bylaw has been drafted.
- c. That Council schedule a Public Hearing after the bylaw has received first and second reading.
2. a. That Council schedule a Hearing to consider a Development Permit with Variances for 605-607 Cornwall Street concurrently with Rezoning Application # 00429.
- b. Following the Hearing and subject to the adoption of the bylaw amendment for 605-607 Cornwall Street, that Council consider authorizing the issuance of the Development Permit with Variances for 605-607 Cornwall Street, in accordance with:
  - i. Plans for Rezoning Application # 00429, stamped July 17, 2014.
  - ii. Development meeting all Zoning Regulation Bylaw requirements, except for the following rear, side and front yard setbacks:
    - Part 1.23 – R1-S2 Zone, Restricted Small Lot Two Storey District
      - Minimum rear yard setback for principal building relaxed from 6.0m to 5.17m
      - Minimum side yard setback from habitable room with windows relaxed from 2.4m to 1.5m
      - Minimum front yard setback for accessory building relaxed from 18.0m to 14.5m
      - Minimum rear yard setback for accessory building relaxed from 0.60m to 0.25m
      - Minimum side yard setback for accessory building on flanking street relaxed from 7.5m to 2.7m

- iii. Final plans to be generally in accordance with plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development.

Committee discussed:

- If it is the City's policy to discuss green building with each applicant
  - This topic has been explored with every applicant and there is now a financial incentive with the Stormwater Utility program.
- There is nothing that says this building should be demolished. We may go down the road like Vancouver that inflates the cost of property in the City. The City should be retaining the existing buildings. There is a real concern that this could happen to hundreds of houses.
- The City should not be demolishing viable building stock. There is no compelling evidence that this house should be destroyed. Committee needs to consider the serious impact this will have on the community.
- There are immediate neighbours who support this application but Council does not want to be seen as encouraging demolition unless there is a need.

For: Councillors Alto, Coleman, Gudgeon, Helps, Isitt, Thornton-Joe and Young  
Against: Councillor Madoff

CARRIED 14/PLUC0192

#### **5.4 Rezoning Application # 00420 and Development Permit with Variances Application for 367 Robertson Street**

Committee received a report regarding a Rezoning Application and Development Permit with Variances for 367 Robertson Street. The proposal is to rezone the property from the R1-G Zone (Gonzales Single Family Dwelling District) to the R1-G2 Zone (Gonzales Small Lot District) in order to permit construction of a new small lot house. The proposal includes the retention of the existing house and its return to a single family detached dwelling from a duplex conversion.

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

1. a. That staff be instructed to prepare the necessary Zoning Regulation Bylaw amendments that would authorize the proposed development outlined in Rezoning Application # 00420 for 367 Robertson Street.
- b. That Council consider giving 1<sup>st</sup> and 2<sup>nd</sup> reading to the bylaw amendment after the bylaw has been drafted.
- c. That Council schedule a Public Hearing after the *Zoning Regulation Bylaw* amendments have received 1<sup>st</sup> and 2<sup>nd</sup> reading.
2. a. That Council schedule a Public Hearing to consider a Development Permit with Variances Application for 367 Robertson Street concurrently with Rezoning Application # 00420.
- b. Following the Public Hearing and subject to adoption of the Zoning Regulation Bylaw amendment for 367 Robertson Street, that Council authorize the issuance of the Development Permit with Variances for 367 Robertson Street in accordance with and subject to:



- i. Plans for Rezoning Application # 00420, stamped March 6, April 1, and July 10, 2014, and development meeting all Zoning Regulation Bylaw requirements except for the following variances:
  - Part 1.96.9(1)(b) R1-G2 Zone, Gonzales Small Lot District minimum rear yard setback is relaxed from 9.00m to 5.72m for the proposed new house and from 9.00m to 2.70m for the existing house.
- ii. Final plans to be generally in accordance with plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development.

Committee discussed:

- The Community Association was concerned about the impact of shadowing on the neighbouring properties. It was requested that the applicant provide a Shadow Study at the Public Hearing.
- It is a busy road and some densification is appropriate.
- If there is a reason why the applicant chose pavement instead of permeable paving and if the applicant could provide a response at the Public Hearing.

CARRIED UNANIMOUSLY 14/PLUC0193

*Councillor Isitt withdrew from the meeting at 9:45 a.m. due to a pecuniary conflict as his father lives close to the subject property and he is the beneficiary of his father's estate.*

### **5.5 Development Permit with Variances Application # 000370 for 300 Michigan Street**

Committee received a report regarding Development Permit with Variance Application for 300 Michigan Street. The application is to construct a four-storey, 14-unit residential building. The application proposes variances to the lot size, parking, and the front, rear and side yard setbacks.

**Action:** It was moved by Councillor Coleman, seconded by Councillor Gudgeon, that Committee recommends that Council schedule a Hearing to consider Development Permit with Variances # 000370 for 300 Michigan Street, in accordance with final approved plans, subject to:

1. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:
  - a. Section 3.3.9 – Relaxation of the minimum lot size from 920m<sup>2</sup> to 800.8m<sup>2</sup>.
  - b. Section 3.3.10 – Relaxation of the minimum front setback from 10.5m to 3.65m.
  - c. Section 3.3.13 – Relaxation of the side (east) setback from 7.07m to nil.
  - d. Section 3.3.13 – Relaxation of the rear setback from 7.07m to 5.88m.
  - e. Schedule C Section 16.B.12(b) – Relaxation from 1.4 spaces per unit (20 stalls) to 1.14 spaces per unit (16).
2. The submission of revised plans to the satisfaction of the Director of Sustainable Planning and Community Development that:
  - a. Refine the south elevation of the proposed building and the front yard to ensure the development provides an effective and attractive street edge on the Michigan Street frontage.

- b. Identify two visitor parking stalls.
3. Council authorizing anchor-pinning into the City right-of-way provided that the applicant enters into an encroachment agreement in a form satisfactory to the City Solicitor and the Director of Engineering and Public Works.
4. Final plans to be in accordance with the plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development.

Committee discussed:

- Concerns that the requirement of a 30 day notification period to Neighbourhood Associations is insufficient. This process needs to be addressed.

CARRIED UNANIMOUSLY 14/PLUC0194

*Councillor Helps withdrew from the meeting at 10:02 a.m.*

*Councillor Isitt returned to the meeting at 10:03 a.m.*

*Councillor Helps returned to the meeting at 10:04 a.m.*

### **5.6 Application for a Permanent Change to Occupant Load – Executive House – 777 Douglas Street**

Committee received a report dated July 30, 2014, regarding a permanent change to Occupant Load of licensed area in relation to a Liquor Primary Liquor Licence for the premises located at 777 Douglas Street, for a permanent change to increase the occupant load.

The current load for the liquor primary service area of the pub is 186 persons. The hours of liquor service are from 09:00h to 01:00h Monday through Sunday. The requested change is due to the reconfiguration of the pub and restaurant floor space on the ground floor of the hotel that faces Humbolt Street. If approved, the occupancy for the liquor primary service area would increase to 241 persons. There would be no change in the hours of operation as a result of this application.

In addition, the licensee conducted a public meeting in the community which has resulted in another five written submissions from area residents, most expressing concern about noise from patrons on the patio during the late night hours as well as patrons out on the public sidewalk smoking and socializing during business hours. The recommendation to limit the patio hours to 11:00 p.m. is seen as a way to support the application while addressing some of the noise concerns expressed by the community.

**Action:** It was moved by Councillor Helps, seconded by Councillor Coleman, that Committee recommends that Council, after conducting a review with respect to noise and community impacts regarding the application to amend the occupant load respecting liquor service for the Liquor Primary Liquor License of the Executive House Hotel, Liquor License No. 064730, located at 777 Douglas Street, supports:

1. The application of the Executive House Hotel to amend its Liquor Primary Liquor License to allow an increase in occupant load to 241 persons, on the

condition that all of the licensed patio seats are vacated no later than 11:00 p.m.

2. That Council provides the following comments on the prescribed considerations:
  - a. The location is in a designated mixed use commercial area which authorizes restaurants, hotels, clubs and associated uses. There is a significant amount of residential use in the immediate vicinity. The Liquor Primary operation within the hotel is compatible with the neighbouring land uses. The business is located within the Inner Harbour District and is within the Intermediate Noise District which allows for a higher noise threshold.
  - b. This request represents a capacity increase of close to 30% in the occupant load of Liquor Primary Licensed seats, however, there is expected to be minimal impact on the neighbourhood if the patio hours are limited to 11:00 p.m. As well the overall capacity of licensed seats in the hotel is decreasing due to the closing of the Café D'Amore Food Primary Liquor License (120 seats) that would result from this application being approved. There is no concern that this change would result in the business being operated contrary to its primary purpose.
  - c. The views of residents were solicited via a mail out to the neighbouring property owners and occupiers within 50 meters of the hotel and a notice posted at the property. Thirty-two responses were received by the City. Seven letters were received supporting the application, including one from the Strata Council of a nearby apartment building. Twenty-four letters (including one from the Downtown Resident's Association) not supporting the application was also received. Analysis of the responses not supporting the application determined that the majority of these residents are quite concerned about noise and nuisance issues related to liquor patrons generally present (including after closing hours) in this area of the City. In many cases these persons were not directly linked to the applicant's business.

Committee discussed:

- The primary issues of concern to the area residents are the nuisance and noise impacts caused by patrons on the patio after 11:00 p.m. and patrons congregating in public space outside the entrance.
  - The LCLB has advised that Council may recommend that the City will only support the increase in patron capacity on the condition that the patio closes by 11:00 p.m. on a nightly basis. The LCLB has the authority to amend this license provision and would do so upon receiving direction from Council and agreement by the licensee.

**Action:**

It was moved by Councillor Coleman, seconded by Councillor Gudgeon, that Committee amend the motion as follows:

After conducting a review with respect to noise and community impacts regarding the application to amend the occupant load respecting liquor service for the Liquor Primary Liquor License of the Executive House Hotel, Liquor License No. 064730, located at 777 Douglas Street, supports:

1. The application of the Executive House Hotel to amend its Liquor Primary Liquor License to allow an increase in occupant load to 241 persons, **only** on the condition that **the licensee agrees to amend the Liquor Primary**

**License so that** all of the licensed patio seats are vacated no later than 11:00 p.m.

2. That Council provides the following comments on the prescribed considerations:
  - a. The location is in a designated mixed use commercial area which authorizes restaurants, hotels, clubs and associated uses. There is a significant amount of residential use in the immediate vicinity. The Liquor Primary operation within the hotel is compatible with the neighbouring land uses. The business is located within the Inner Harbour District and is within the Intermediate Noise District which allows for a higher noise threshold.
  - b. This request represents a capacity increase of close to 30% in the occupant load of Liquor Primary Licensed seats, however, there is expected to be minimal impact on the neighbourhood if the patio hours are limited to 11:00 p.m. As well the overall capacity of licensed seats in the hotel is decreasing due to the closing of the Café D'Amore Food Primary Liquor License (120 seats) that would result from this application being approved. There is no concern that this change would result in the business being operated contrary to its primary purpose.
  - c. The views of residents were solicited via a mail out to the neighbouring property owners and occupiers within 50 meters of the hotel and a notice posted at the property. Thirty-two responses were received by the City. Seven letters were received supporting the application, including one from the Strata Council of a nearby apartment building. Twenty-four letters (including one from the Downtown Resident's Association) not supporting the application was also received. Analysis of the responses not supporting the application determined that the majority of these residents are quite concerned about noise and nuisance issues related to liquor patrons generally present (including after closing hours) in this area of the City. In many cases these persons were not directly linked to the applicant's business.

On the amendment:

CARRIED UNANIMOUSLY 14/PLUC0195

On the main motion as amended:

CARRIED UNANIMOUSLY 14/PLUC0196

Committee continued discussion:

- While concerns were expressed by area residents about patrons being on the sidewalks around the premises during and after hours causing noise or nuisances, it was recognized that the City requires the business to control this behaviour via a Good Neighbour Agreement (GNA) enacted under the Business Licence Bylaw.
- GNA's are enforceable by ticketing under the *Ticket Bylaw* or through administrative sanction by the Licence Inspector or Council under the Business Licence Bylaw.
- It is good to hear that the applicant has been willing to listen to the downtown residents. There are many issues that affect the quality of life to those who live downtown.

## 5.7 Proposed Amendment to the Master Development Agreement for 1952 Bay Street

Committee received a report regarding 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 (MDA) for the Royal Jubilee Hospital.

In addition to outlining a deadline of June 29, 2011, for submission of a comprehensive Master Plan, the MDA identifies a range of issues that should be addressed in the Plan to the satisfaction of the Director of Sustainable Planning and Community Development. The MDA also states that, with the exception of the Patient Care Centre (which is now complete and operating), a power plant addition, links from the Diagnostic and Treatment Centre to the Patient Care Centre and various surface parking lots works, no further development on the land can take place until City Council have approved the Master Plan.

A Draft Plan was submitted to the City prior to the June 29, 2011, deadline and work continued on this document into 2012. In October 2012, staff provided Council with a memo providing an update on the status of the Master Plan explaining that Island Health were working towards a final draft of the Plan and that, upon completion, the document would be subject to further review from both City staff and the community. The latest iteration of the draft document was submitted in November 2013 and does not fully satisfy the obligations of the MDA. In a letter to staff dated July 31, 2014, Island Health has requested that the submission deadline for the comprehensive Master Plan be extended to June 30, 2014, in order to respond to the issues raised by staff.

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

1. That Council direct staff to prepare an amendment to Section 16 of the Master Development Agreement for the Royal Jubilee Campus, to the satisfaction of the Director of Sustainable Planning and Community Development and the City Solicitor, that:
    - a. Extends the deadline for submission of a comprehensive Master Plan for the Campus to June 30, 2015; and
    - b. Allows 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 direct the Mayor and Corporate Administrator to execute the amendment to the Master Development Agreement and other instruments to affect its registration in the Land Title Office.
- North Jubilee Neighbourhood Association raised the issue that they are a small association with small membership and they have been involved for many years dealing with issues raised by the Jubilee Hospital, often with frustration. They have seen changes in planning but indicate they are representing the neighbourhood and the city. Is there a way to widen the net in regard to feedback for the hospital?

*Councillor Coleman withdrew from Committee at 10:45 a.m. returned at 10:46 a.m.*

- Committee recognizes the services the hospital delivers and the employment it provides to the region. Is there a way to encourage feedback from a wider community to share the burden of the community association?
- There has been frustration that there is not meaningful consultation taking place.
  - This is a historic issue and the MDA has specific language regarding consultation and staff will be ensuring the MDA requirements are fulfilled.
- It is not known what the order of magnitude of the size of boiler plant will be. There have been no details provided.
  - It may not come back to Council, it depends on what is being done. If it is using the same footprint then a Development Permit would not come back here. If it does not need rezoning it will not come back to this table. Committee cannot make a decision when they do if it is not understood what is being proposed.
- Concerns that Begbie Hall could be demolished without consultation or discussion with the City or community.

**Action:** It was moved by Councillor Isitt, seconded by Councillor Gudgeon, that Committee postpone consideration of the motion pending receipt of further information from the applicant.

CARRIED UNANIMOUSLY 14/PLUC0197

*Committee recessed at 11:15 a.m.*

*Committee reconvened at 11:20 a.m.*

### **5.8 Heritage Alteration Permit Application # 00191 for 1205 Wharf Street / Bastion Square**

Committee received a report regarding Heritage Alteration Permit Application # 00191 for 1205 Wharf Street/10 Bastion Square. The application is to permit a timber beam that has already been attached to a Heritage-Designated building and City property as part of a sidewalk café.

The key issues associated to this application are:

- Unpermitted work
- Physical impact on the Heritage-Designated Reid Block
- Visual impact on the setting of Bastion Square
- Encroachment into the View Context of a Public Outward View

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

1. That City Council decline Heritage Alteration Permit Application # 00191 for 1205 Wharf Street/10 Bastion Square.
2. That the beam be removed and the exterior wall of the Reid Block damaged by the installation be restored to the satisfaction of the Director of Sustainable Planning and Community Development.
3. That any damage to the sidewalk area caused by the installation be restored to the satisfaction of the Director of Engineering and Public Works.

Committee discussed:

- By allowing this proposal to proceed it would set a bad precedent, the owners are altering City owned property and there should be minimal fixturing.

- If committee had seen this application before it was built it would have been turned down. It has been constructed strictly for utility.
- Committee's job is to look at how appropriate it is as a design solution. Each change should enhance and not detract.
- In an area like this we need decisions based on the public realm. It is the wrong approach for this location and does not enhance the view.
- The area was built on public land without a permit and there is also the issue of the alteration of a heritage building. As the owners, we are the custodians of that land.

CARRIED 14/PLUC0198

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

*Committee Recessed at 12:30 p.m.*  
*Committee Reconvened at 1:00 p.m.*

## **6. PROPERTY MAINTENANCE BYLAW HEARING 1:00 P.M.**

### **6.1 Work Without Permit – 865 View Street, 12<sup>th</sup> Floor**

Committee received a report dated July 16, 2014, in respect to work that has been done without a permit at 865 View Street, 12<sup>th</sup> Floor. An inspection completed by City electrical, plumbing and building inspectors confirmed code violations. The building managers did complete an electrical survey but have failed to obtain the other necessary permits to legalize the remaining work without permit.

*The Chair asked staff to provide an update.*

M. Frankl (Bylaw Officer): The Property Owner of 865 View Street, contacted her earlier this week, after receiving the Notice of Hearing and is very interested in taking the proper steps to correct the contravention. Therefore she is recommending that the matter be postponed for 30 days to allow the owner to remedy the unauthorized construction.

Action: It was moved by Councillor Thornton-Joe, seconded by Councillor Coleman, that Committee postpone consideration of this matter for 30 days.

CARRIED UNANIMOUSLY 14/PLUC0199

### **6.2 Illegal Accessory Building – 755 Front Street**

Committee received a report dated July 24, 2014, regarding an Illegal Accessory Building (carport) constructed at 755 Front Street. The approved use of the property per the approved building plans is Single Family Dwelling and the residence conforms to this regulation. The owner constructed a carport in the driveway across a City easement without making an application for required zoning variances and a building permit and is therefore in contravention of the *Zoning Regulation Bylaw* and the *Building Bylaw*.

*The Chair opened the hearing at 1:02 p.m.*

*The Chair explained the recommendation that was before Committee.*

Recommendation: The Manager, Bylaw & Licensing (Building Inspector) recommends that the Planning and Land Use Committee direct the Corporate Administrator to file a Notice on Title in the Land Title Office in relation to the property located at 755 Front Street, legally described as LOT B, SECTION 31, ESQUIMALT, PLAN 64818 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 that further information regarding this resolution may be inspected at the Legislative and Regulatory Services Department in Victoria City Hall.

*The Chair asked if the property owner was present and if they had received notification of this hearing.*

S. MacPherson (Property Owner): Yes

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

M. Frankl (Bylaw Officer): The property at 755 Front Street is located in the Victoria West neighbourhood in a R1-S2, restricted small lot, single family dwelling district. The approved use of the property as per the approved building plans is Single Family Dwelling and the residence conforms to this zoning regulation. However, the owner constructed a carport in the driveway, across a city easement without following the due process; namely not making application for required zoning variances and a building permit. As a result the carport is in contravention of the Zoning Regulation Bylaw and the Building Bylaw.

As the result of a complaint an inspection was made of the property on October 10, 2013, where the condition of the structure was documented. Upon meeting with the homeowner, the owner produced a letter from the City dated September 22, 1999, which stated approval in principal but still required the necessary applications be made prior to construction. The homeowner did not complete those requirements. City staff have met with the owner and outlined why the structure does not conform to the code of the day. The owner does not wish to remove the carport nor undertake the process to legalize the carport as a temporary structure. The impact of filing a Notice on Title was explained and the owner stated this was her preferred choice.

*The Chair asked if the property owner had any questions of staff.*

S. MacPherson (Property Owner): No

*The Chair asked staff if there are any safety reasons that would indicate the removal of the structure.*



M. Frankl (Bylaw Officer): There are a few building construction concerns, but it is not at a high risk. The carport was built with combustible material and there is an issue with the easement. Should the City need access to the sewer the Section 219 covenant enables the City to remove the structure at the owner's expense.

*The Chair asked if the property owner wished to make a statement.*

S. MacPherson (Property Owner): In November 1999 after meeting with City staff, it was her understanding that if the carport was not attached to the house it would be allowable. The posts are not in cement but can be removed. After talking to the Engineering Department she was told that the easement would not be a problem. The carport was to be a temporary construction and as such she thought that no building permit was required.

*The Chair asked if any Committee Members had questions for the property owner.*

Councillor Madoff: If the carport was to be temporary, how long was it to be temporary?

S. MacPherson (Property Owner): Until access to the easement was required.

*The Chair asked if there were any closing statements.*

M. Frankl (Bylaw Officer): Building regulations change over time, what may have been legal in 1999 may no longer be, the Bylaw was last amended in 2012. It would have been more prudent to come back to the City for clarification.

*The Chair closed the Hearing at 1:20 p.m.*

**Action:** It was moved by Councillor Helps, and seconded by Councillor Coleman that the Planning and Land Use Committee direct the Corporate Administrator to file a Notice on Title in the Land Title Office in relation to the property located at 755 Front Street, legally described as LOT B, SECTION 31, ESQUIMALT, PLAN 64818 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 that further information regarding this resolution may be inspected at the Legislative and Regulatory Services Department in Victoria City Hall.

CARRIED UNANIMOUSLY 14/PLUC0200

## **7. CLOSED MEETING 1:30 P.M.**

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

**Absent:** Mayor Fortin

**Staff Present:**

J. Jenkyns - Acting City Manager, D. Day, Director of Sustainable Planning and Community Development; M. MacLeod-Shaw – Assistant City Solicitor; J. Handy – Senior Planner; R. Woodland – Director of Legislative & Regulatory Services, J. Appleby – Secretary.

**8. ADOPTION OF MINUTES**

**8.1 Minutes of the Meeting held July 17, 2014.**

**Action:** It was moved by Councillor Thornton-Joe, seconded by Councillor Helps, that the Minutes from the Closed Planning & Land Use Committee meeting held July 17, 2014, be approved.

CARRIED UNANIMOUSLY 14/PLUC0201

**9. Statutory Right-of-Way at 1810 Store Street**

Committee received a report dated August 7, 2014, from the Director of Sustainable Planning and Community Development regarding a Statutory Right-of-Way at 1810 Store Street.

The discussion and motion were recorded and kept confidential.

CARRIED UNANIMOUSLY 14/PLUC0202

**10. ADJOURNMENT**

**Action:** It was moved by Councillor Coleman, seconded by Councillor Gudgeon, that Committee adjourn the Planning & Land Use Committee meeting of August 21, 2014, at 1:40 p.m.

CARRIED UNANIMOUSLY 14/PLUC0203

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Councillor Alto, Chair