

**MINUTES OF THE
PLANNING & LAND USE COMMITTEE MEETING
HELD THURSDAY, JANUARY 23, 2014, 9:00 A.M.**

1. THE CHAIR CALLED THE MEETING TO ORDER AT 9:02 A.M.

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

Absent: Councillor Young

Staff Present: J. Jenkyns – Acting City Manager; D. Day, Director, Department of Sustainable Planning and Community Development; A. Meyer – Assistant Director, Department of Sustainable Planning and Community Development; H. Cain – Senior Planner; M. Miller – Senior Planner; R. Woodland – Director of Legislative & Regulatory Services; J. Appleby - Recording Secretary

2. APPROVAL OF THE AGENDA

Action: Councillor Alto moved that the Agenda of the January 23, 2014, Planning & Land Use Committee meeting be approved.

CARRIED UNANIMOUSLY 14/PLUC016

3. CONSENT AGENDA

3.1 MINUTES

Action: Councillor Alto moved that the Minutes from the meeting held January 9, 2014, Planning & Land Use Committee be approved.

CARRIED UNANIMOUSLY 14/PLUC017

4. DECISION REQUEST

4.1 Rezoning Application # 00379 for 2810 Shelbourne Street

Committee received a report dated January 8, 2014, regarding Rezoning Application # 00379 for 2810 Shelbourne Street. When this proposal was presented to the Planning and Land Use Committee on March 7, 2013, the

Committee postponed the application pending further information from the applicant.

The main issues were:

- The proposal results in the isolation or “orphaning” of the adjacent properties located at 2816 Shelbourne Street and 1650 Ryan Street. The *Official Community Plan* encourages the logical assembly of development sites that enable the best realization of permitted development potential for an area. This issue is still unresolved as the applicant and the owner of the adjacent properties have not come to an agreement of a coordinated redevelopment of the three properties.
- There are a number of setback reductions associated with the application which are in part related to the lot area being below the minimum required in the standard comparative zone.

The applicant has chosen to maintain the development proposal as originally submitted.

- Action:** Councillor Alto moved that Committee recommends that Council authorize that Rezoning Application # 00379 for 2810 Shelbourne Street proceed to a Public Hearing, subject to:
1. Submission of a Development Permit Application, as the site falls within Development Permit Area 7A, Corridors, at which time refinements to the design siting and landscaping could be further considered.
 2. Consideration by the applicant of transportation demand management strategies to justify the parking reduction.
 3. Prior to Public Hearing, the applicant provide a registered Statutory Right-of-Way of 7.0m along Shelbourne Street.

Committee discussed the motion as follows:

- The development provides a good environmental reuse of a building.
- An aspect of concern is the discussion about the statutory Right-of-Way and the variance required on Shelbourne.
- The area is identified for greater density and it will be provided in a manner that is ground oriented which provides an architectural change in building types and adds variety to the street.
- At the Public Hearing there will be an opportunity to hear from the community.

CARRIED 14/PLUC018

For: Mayor Fortin, Councillors Alto, Coleman, Helps, Madoff and Thornton-Joe

Against: Councillors Gudgeon and Isitt

4.2 Rezoning Application # 00380 and Development Permit with Variance for 62 Cambridge Street

Committee received a report dated January 9, 2014, regarding Rezoning Application # 00380 and Development Permit with Variance for 62 Cambridge

Street. The proposal is to rezone from the R1-B Zone (Single Family Dwelling District) to permit a single family dwelling with a legal secondary suite on a subdivided lot and construction of a new small lot house with one variance related to the front setback requirements. Given the existing single family dwelling on a newly created lot would have a greater total floor area and higher density than permitted in the R1-B Zone, a custom zone would be required.

The subject site is designated as Traditional Residential in the *Official Community Plan, 2012* (OCP). The rezoning proposal is generally consistent with the uses identified for this Urban Place Designation.

The proposal to rezone is compatible with the OCP objectives for sensitive infill and the proposed design will comply with applicable guidelines in Development Permit Area 15A, Intensive Residential Small Lot Development.

Current policy states that a “satisfactory level” of neighbourhood support for a small lot house rezoning is 75%. The applicant completed a Small Lot House Rezoning Petition in 2012 and 2013. Initially 33% of adjacent property owners and residents supported the proposal; this increased to 56% in 2013.

Action:

Councillor Madoff moved that Committee recommends that Council authorize:

1. That Rezoning Application # 00380 for 62 Cambridge Street proceed for consideration at a Public Hearing, subject to the preparation of the necessary *Zoning Regulation Bylaw* amendments for the existing single family dwelling with a secondary suite, restricting any further conversion, and for construction of a small lot house.
2. Subject to adoption of the *Zoning Regulation Bylaw* amendments, that Council authorize the issuance of a Development Permit, in accordance with:
 - a. Plans for Rezoning Application # 00380, stamped November 12, 2013, and December 13, 2013, for the colour elevation and landscape plan;
 - b. Development meeting all Zoning Regulation Bylaw requirements, except for the following variance:
Part 1.23, R1-S2 Zone, Restricted Small Lot Two Storey District
 - Minimum front setback is relaxed from 6.0m to 4.1m
 - c. Final plans to be in accordance with plans identified above.

Committee discussed the motion:

- A “satisfactory level” of neighbourhood support for a small lot house rezoning is 75%. The applicant completed a Small Lot House Rezoning Petition twice in 2012 and 2013. Initially 33% of adjacent property owners and residents supported the proposal; this increased to 56% in 2013.
- Many neighbours raised concerns about the small lot zone. The level of support is very telling. There needs to be a balance and if the level of support required is 75% then this application is unacceptable and a significant departure from policy guidelines.
- Small lots are a very controversial item for neighbourhoods. Committee’s job is to think about what is for the good of the community.

Action: Councillor Thornton-Joe recommends that Committee postpone consideration of the motion until further refinements are completed in relation to setbacks, height and community support.

CARRIED 14/PLUC019

For: Mayor Fortin, Councillors Alto, Coleman, Gudgeon, Isitt, Madoff and Thornton-Joe

Opposed: Councillor Helps

4.3 Development Permit # 000321 with Variances for 1521 Elford Street

Committee received a report dated January 9, 2014, regarding Development Permit #000321 with Variances for 1521 Elford Street. The application is to permit the construction of a four-storey, 17-unit apartment building in the R3-2 Zone, Multiple Dwelling District. The proposal has a total of seven variances from the *Zoning Regulation Bylaw* for site area, site coverage, open space, setback and parking.

Action: Councillor Madoff moved that Committee recommends that Council authorize:

1. That Development Permit # 000321 with Variances for 1521 Elford Street proceed for consideration at a Public Hearing, subject to:
 - a. Referral to staff for further consideration of revisions to improve the site plan, urban design, architecture and landscape design with specific attention to the context and transition, human-scaled form, massing and features and the application to return to the Planning and Land Use Committee for further consideration.

Committee discussed the motion:

- Committee should consider referring this proposal back to staff and not the Advisory Design Panel. There is a long list of refinements that are too many. The list of concerns for review is much more than would typically be asked of the Advisory Design Panel. The application would be best served by the Planning and Land Use Committee sending it back to the applicant for further work.
- The application will have a significant impact on Stadacona Park. There is an opportunity on this site but staff concerns are significant. There are currently multi-family buildings in the immediate area are not suitable architectural expressions..
- Elford is considered a pedestrian connector between two very busy streets.
- Committee must ask the applicant to go back and address the items raised; Committee is supportive but there are too many items that need to be reconsidered.

Mayor Fortin proposed the following amendment:

That Council authorize:

1. That Development Permit # 000321 with Variances for 1521 Elford Street proceed for consideration at a Public Hearing, subject to:

- a. ~~Referral to staff for further consideration with revisions to improve the site plan, urban design, architecture and landscape design with specific attention to the context and transition, human-scaled form, massing and features and the application to return to the Planning and Land Use Committee for further consideration.~~
- a. **Plan revisions and refinement to the design to address the matters that are identified below in 1(b), to the satisfaction of the Director of Sustainable Planning and Community Development.**
- b. **Referral to Advisory Design Panel with direction to consider plan revisions to improve the site plan, urban design, architecture and landscape design with specific attention to the context and transition, human-scaled form, massing and features.**
- c. **Preparation, execution and registration of a Statutory Right-of-Way of 2.4m along Pandora Avenue to the satisfaction of the City Solicitor and Director of Engineering and Public Works.**

Committee discussed the amendment:

- Committee is looking for the potential of a successful outcome and trying to avoid a reapplication process that will slow it down.
- It is unclear what the plan is for the adjacent property; if we are looking at Phase 1 and if more is forthcoming, this application could be looked at differently. Committee cannot move forward in a blind fashion.
 - Staff advised that if in the course of revisions any variances are changed; it will need to come back to PLUC regardless.
- If it moves forward and concerns have been addressed; Committee would receive a memo. If the revisions do not satisfy to the Director it would come back in a report to this Committee.

Councillor Helps left the meeting at 10:38 a.m. and returned at 10:41 a.m.

Councillor Isitt proposed the following amendment to the amendment:

1. That Development Permit # 000321 with Variances for 1521 Elford Street proceed for consideration at a Public Hearing, subject to:
 - a. Plan revisions and refinement to the design to address the matters that are identified below in 1(b), to the satisfaction of the Director of Sustainable Planning and Community Development.
 - b. Referral to Advisory Design Panel with direction to consider plan revisions to improve the site plan, urban design, architecture and landscape design with specific attention to the context and transition, human-scaled form, massing and features.
 - c. Preparation, execution and registration of a Statutory Right-of-Way of 2.4m along Pandora Avenue to the satisfaction of the City Solicitor and Director of Engineering and Public Works.
 - d. **Consideration of Revised plans to come to the Planning and Land Use Committee.**

Committee discussed the amended amendment:

- There is so much unknown in this application. Committee needs to be certain regarding what we are advancing.
- There are a lot of major concerns with the detailed design.
- Do not want to be seen as pulling all applications back to this table.
- There is so much unknown in this application, the issues need to be addressed and the determination will be based on that. This is Phase 1 of a 2 Phase project.

On the amendment to the amendment:

FAILED 14/PLUC020

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

On the amendment:

CARRIED 14/PLUC021

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

On the main motion as amended:

CARRIED 14/PLUC022

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

4.4 Development Permit # 000330 for 645 Dunedin Street

Committee received a report dated December 2, 2013, regarding Development Permit Application # 000330 for 645 Dunedin Street. The proposal is to construct a three-bay service garage with a storefront office area at street level with a mezzanine/staff lounge above the office/retail space and accessory office space/storage extending over the entire ground floor footprint at the second floor level. Loading and garbage collection will be located along the east property boundary.

Committee discussed:

- There are no variances related to this application; therefore a Public Hearing and community input are not required.

Action: Councillor Madoff moved that Committee recommends that Council authorize Development Permit # 000330 subject to:

1. The applicant providing landscape screening to the satisfaction of the Director of Sustainable Planning and Community Development.
2. The applicant mitigating the effect of the west blank wall to the satisfaction of the Director of Sustainable Planning and Community Development.

CARRIED UNANIMOUSLY 14/PLUC023

4.5 Heritage Designation # 000136 for 97 Cook Street

Committee received a report dated January 14, 2014, regarding Heritage Designation of an existing house which the owner has agreed to as part of Rezoning Application # 00411 to permit a new small lot house in the existing rear yard. The house is an existing Craftsman Bungalow style, one-and-a-half storey house in the Fairfield neighbourhood, constructed of artificial stone. The house was built in 1911 and is located in the eastern part of the neighbourhood on Cook Street, just south of Cook Street Village.

Action: Councillor Madoff moved that Committee recommends that Council authorize that Heritage Designation Application # 000136 for 97 Cook Street proceed for consideration at a Public Hearing in conjunction with Rezoning Application # 00411 and that City Staff prepare the Heritage Designation Bylaw to designate the property as a Municipal Heritage Site.

CARRIED UNANIMOUSLY 14/PLUC024

Committee thanked Mr. Barber for his years of service to the City.

5. PROPERTY MAINTENANCE HEARINGS 10:58 a.m.

Mayor Fortin left the meeting at 10.58 a.m. and Councillor Alto assumed the Chair

5.1 Work Without Permit – 2315 Forbes Street

Committee received a report dated November 22, 2013, in respect to work that has been done without permit to expand the liveable space of the rental duplex located at 2315 Forbes Street, by converting the basements into suites, making a rental four-plex. The owner was directed to make application for building, plumbing and electrical permits to return the property to an approved configuration. No effort to date has been made to bring the property into compliance.

Recommendation: The Manager, Bylaw & Licensing (Building Inspector) recommends that the Planning and Land Use Standing Committee direct the Corporate Administrator to file a Notice on title in the Land Title Office in relation to the property located at 2315 Forbes Street, legally described as LOT 1, PLAN 1239, SECTION 75, VICTORIA (DD 14081W), 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 opened the hearing at 11:02 a.m.

The Chair explained the recommendation that was before Committee.

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

H. Stevenson (Property Owner Representative): Yes. He is the son-in-law of the owners.

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

E. Garner (Senior Bylaw Officer): The property at 2315 Forbes Street is located in the Fernwood neighbourhood in an R-2, Two Family Dwelling District. The approved use of the property as per the approved building plans is a Duplex. The property was inspected on May 22, 2013, and it was discovered that there were additional suites located in the basements of both side of this duplex with addresses of 2315 and 2317 Forbes Street. There had been some suggestion though unproven, that there were five hydro meters, suggesting five suites.

The Chair asked if the property owner had any questions.

Mr. Stevenson (Property Owner Representative): There is no fifth suite. The property is configured as it was when it was purchased 20 years ago. There was an attempt to put a hydro meter on the common laundry room and that would account for the fifth meter.

The Chair asked if Committee members had any questions.

The Chair asked the property owner if he wished to explain his version of the events.

Mr. Stevenson (Property Owner Representative): His father-in-law bought the property 20 years ago and has done a lot of work to improve it. It is unfortunate that a tenant eviction was necessary and the person concerned complained. It has always been four-plex and the family has not done nothing to change that.

The Chair asked if Mr. Garner had any questions for the property owner.

The Chair asked if there were any further comments.

Mr. Stevenson (Property Owner Representative): The property is large and they may be able to bring it into compliance and are looking forward to working with the City. He understands the implications of a Notice-on-Title.

The Chair closed the hearing at 11:11 a.m.

Action: Councillor Madoff moved that Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the properties located at 2315 Forbes Street, legally described as LOT 1, PLAN 1239, SECTION 75, VICTORIA (DD 14081W), 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.

CARRIED UNANIMOUSLY 14/PLUC025

5.2 Illegal Use and Work Without Permit – 724 Craigflower Road

Committee received a report dated November 14, 2013, in respect to work completed without permit to construct a basement suite in a single family dwelling; and for the placement of an accessory building. Both are in contravention of the *Zoning Regulation Bylaw*. The owner has repeatedly failed to comply with any direction given and has made no effort to bring the property into compliance.

Recommendation: The Manager, Bylaw & Licensing (Building Inspector) recommends that the Planning and Land Use Standing Committee direct the Corporate Administrator to file a Notice on title in the Land Title Office in relation to the property located at 724 Craigflower Road, legally described as PID 009-195-726, LOT 6, SECTION 10, ESQUIMALT DISTRICT, PLAN 288 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 opened the hearing at 11:13 a.m.

The Chair explained the recommendation that was before Committee.

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

M. Frankl (Bylaw Officer): The property owner is not present but has received notice of this hearing.

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

M. Frankl (Bylaw Officer): The property at 724 Craigflower Road is located in the Victoria West neighbourhood in a R1-B, Single Family Dwelling District. The approved use of the property per the approved building plans is Single Family Dwelling. The actual use is a single family dwelling with a self-contained basement suite. The suite was installed without City permits and violates the Zoning Regulation Bylaw, Building Bylaw, Plumbing Bylaw and Electrical Bylaw for illegal use and work without permit.

There is also an accessory building in the backyard which violates the Zoning Regulation Bylaw setback requirement for accessory buildings. Schedule F of the Zoning Bylaw requires a 60cm setback from each property line. A legal survey was provided to the City in June 2013 and confirms the accessory building to be in violation of the setback for the southern property line by 22cm. The property owner has been contacted multiple times to address these bylaw violations and to date

has failed to take any remedial action to bring the property into compliance. The owner failed to attend and/or have a representative attend an inspection of the basement suite despite proper notification. In addition, the owner has failed to move the shed despite months of time to address the situation.

The Chair asked if Committee members had any questions.

Councillor Gudgeon: Questioned staff if there were safety concerns.

M. Frankl (Bylaw Officer): As they were unable to inspect the suite they cannot be sure.

M. Hayden (Manager of Bylaw & Licensing): This is part of a graduated process to gain compliance. It does not mean the file is closed, Bylaw will continue to follow up to acquire compliance over time.

Councillor Gudgeon: Raised concerns that someone could become trapped in an unsafe situation.

R. Woodland (Director, Legislative and Regulatory Services): Mr. Hayden is suggesting that we do not close files. The City must balance the approach with the resources we have available. We do not have the resources to deal immediately with all complaints. Those that have safety issues will be dealt with as first priority. Staff will try to get in to inspect the property and legal action may be required to gain entry.

Councillor Thornton-Joe: This raises a concern; a Notice on Title is good, but it does not protect the occupant.

The Chair asked if Committee Members had any further comments.

The Chair asked if any members of the public wished to comment.

The Chair asked if staff had any final comments.

The Chair closed the hearing at 11:24 a.m.

Action: Councillor Madoff moved that Committee direct the Corporate Administrator to file a Notice on title in the Land Title Office in relation to the property located at 724 Craigflower Road, legally described as PID 009-195-726, LOT 6, SECTION 10, ESQUIMALT DISTRICT, PLAN 288 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.

CARRIED UNANIMOUSLY 14/PLUC026

5.3 Work Without Permit – 732 Front Street

Committee received a report dated December 5, 2013, in respect to work completed without permit for the construction of an accessory building at 732 Front Street. The owner recognizes that the process to bring the structure into compliance with City bylaws is too onerous for her to complete.

The Chair opened the hearing at 11:25 a.m.

The Chair explained the recommendation that was before Committee.

Recommendation: The Manager, Bylaw & Licensing (Building Inspector) recommends that the Planning and Land Use Standing Committee direct the Corporate Administrator to file a Notice on title in the Land Title Office in relation to the property located at 732 Front Street, legally described as PID 006-452-124, LOT 3, SECTION 31, ESQUIMALT DISTRICT, PLAN 2344, 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 was present and if they had received notification of this hearing.

M. Frankl (Bylaw Officer): The owner has been notified and has indicated they will not be attending today's proceedings.

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

M. Frankl (Bylaw Officer): The property at 732 Front Street is located in the Victoria West neighbourhood in a R1-B, Single Family Dwelling District. The approved use of the property per the approved building plans is Single Family Dwelling and the residence conforms to this zoning regulation. However, there is an accessory building in the backyard that was built without permit and as a result violates the *Zoning Regulation Bylaw* and the *Building Bylaw*.

The owner was advised that the construction of the accessory building did in fact require a Building Permit from the City. A letter was sent to the owner on July 29, 2013, directing her to apply for a Building Permit. A Building Inspector attended on November 19, 2013, and was able to provide a list of the deficiencies under the British Columbia Building Code. Upon notifying the owner of the list of deficiencies, she stated she is unwilling to undertake the necessary steps to make the building comply with the *Zoning Regulation Bylaw* and the *Building Bylaw* as it is too much work and expense.

The Chair asked if Committee members had any questions.

The Chair closed the hearing at 11:27 a.m.

Action: Councillor Helps moved that Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the properties located at 732 Front Street, legally described as PID 006-452-124, LOT 3, SECTION 31, ESQUIMALT DISTRICT, PLAN 2344, 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.

CARRIED UNANIMOUSLY 14/PLUC027

6. ADJOURNMENT

Action: Councillor Coleman moved that the Planning and Land Use Standing Committee meeting of January 23, 2014, be adjourned at 11:28 a.m.

CARRIED UNANIMOUSLY 14/PLUC028

Mayor Fortin, Chair