



**Committee of the Whole Report  
For the Meeting of January 30th, 2025**

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**To:** Committee of the Whole **Date:** January 23, 2025

**From:** Karen Hoese, Director, Planning and Development

**Subject:** **Rezoning Application No. 00879 and Development Variance Permit No. 00289 for 1911/1913 Belmont Avenue**

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**RECOMMENDATION**

**Rezoning Application**

1. That Council instruct the Director of Planning and Development to prepare the necessary *Zoning Regulation Bylaw* amendment that would authorize the proposed development outlined in the staff report dated January 23, 2025, for 1911/1913 Belmont Avenue.
2. That, after publication of notification in accordance with section 467 of the Local Government Act, first, second, third and final reading of the zoning. regulation bylaw amendment be considered by Council.
3. That the above recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

**Development Variance Permit**

That Council, after giving notice, consider the following motion:

1. That subject to the adoption of the necessary *Zoning Regulation Bylaw* amendment, Council authorizes the issuance of Development Variance Permit (DVP) No. 00289 for 1911/1913 Belmont Avenue, in accordance with plans submitted to the Planning and Development department on January 16, 2024, subject to:
  - a. Proposed development meeting all City *Zoning Regulation Bylaw* requirements, except for the following variances:
    - i. allow roof decks
    - ii. increase the maximum height of the house from 7.60m to 7.82m

- iii. reduce the rear yard setback from 7.82m to 5.66m (to the deck)
- iv. reduce the side yard setback (north) from 3.00m to 0.49m (to the stairs)
- v. reduce the side yard setback (south) from 1.50m to 0.34m (to the deck)
- vi. reduce the combined side yards setback from 4.50m to 0.83m
- vii. increase the maximum site coverage from 40 percent to 42 percent

2. That the Development Variance Permit, if issued, lapses two years from the date of this resolution.

## **LEGISLATIVE AUTHORITY**

This report discusses a Rezoning Application and a concurrent Development Variance Permit Application.

Relevant rezoning considerations include increasing the maximum combined floor area of the existing building from 300m<sup>2</sup> to 336.20m<sup>2</sup>.

The relevant Development Variance Permit considerations relate to the impact of the variances.

### **Enabling Legislation**

In accordance with Section 479 of the *Local Government Act*, Council may regulate within a zone the use of land, buildings and other structures, the density of the use of the land, building and other structures, the siting, size and dimensions of buildings and other structures as well as the uses that are permitted on the land and the location of uses on the land and within buildings and other structures.

In accordance with Section 498 of the *Local Government Act*, Council may issue a Development Variance Permit that varies a *Zoning Regulation Bylaw* provided the permit does not vary the use or density of land from that specified in the *Zoning Regulation Bylaw*.

## **EXECUTIVE SUMMARY**

The purpose of this report is to present Council with information, analysis and recommendations for a Rezoning Application and a Development Variance Permit Application for the property located at 1911/1913 Belmont Avenue. The proposal is to rezone the property from the R1-B Zone, Single Family Dwelling District, to a new zone to increase the maximum allowable combined floor space area of the existing building. A concurrent Development Variance Permit application addresses siting, setbacks, roof deck, height and site coverage variances. Both the Rezoning Application and associated Development Variance Permit (DVP) aim to legalize unauthorized work completed on the property. No new development is proposed as part of this application.

It is recommended that the rezoning and variances be granted as the resulting structure is generally consistent with *Official Community Plan* and other relevant City policies.

**BACKGROUND**

**Description of Proposal**

This proposal is to rezone the site at 1911/1913 Belmont Avenue from the R1-B Zone, Single Family Dwelling District, to a new site-specific zone to legalize work done on the property without permits. Under the R1-B Zone, instead of a Floor Space Ratio (FSR), the total combined floor area of all floors of the principal building is used as a measure of density. Through the rezoning, an increase in the total combined floor area is proposed to 337m<sup>2</sup> from 300m<sup>2</sup>.

The new zone will be based on the R1-B Zone, with the following variances proposed for cases where the proposal does not comply with the R1-B zone requirements:

- Allow roof decks
- Increase the maximum height of the house from 7.60m to 7.82m
- Reduce the rear yard setback from 7.82m to 5.66m (to the deck)
- Reduce the side yard setback (north) from 3.00m to 0.49m (to the stairs)
- Reduce the side yard setback (south) from 1.50m to 0.34m (to the deck)
- Reduce the combined side yards setback from 4.50m to 0.83m
- Increase the maximum site coverage from 40 percent to 42 percent.

**Land Use Context and Existing Site Development and Development Potential**

The area is characterized by single-family dwellings, including heritage registered and designated properties.

Under the current R1-B Zone, the subject property could be redeveloped as a single-family dwelling with a secondary suite or garden suite.

The site is currently used as a single-family dwelling, with an illegal secondary suite that is proposed be decommissioned as part of the Building Permit process.



## Relevant History

An inspection of the property was conducted by Bylaw Services in December 2023 after receiving a letter about unauthorized work done on the property. The inspection revealed that both internal and external changes had been made to the property without permits, including the conversion of the back porch into habitable floor area. This conversion tipped the total floor area of the existing dwelling to over 300m<sup>2</sup>, triggering a Rezoning requirement. Additionally, a Development Variance Permit is required to legalize the external modifications made to the property.

## Community Consultation

As per the letter dated July 27, 2024 (Attachment D), the Fernwood Land Use Committee has exempted this application from the CALUC review process.

Section 464(3) of the *Local Government Act* prohibits a local government from holding a public hearing for a Rezoning Application that is consistent with the *Official Community Plan* (OCP) and is intended to permit residential development. However, notice must still be sent to all owners and occupiers of adjacent properties prior to introductory readings of the *Zoning Regulation Bylaw* amendment.

## ANALYSIS

### Rezoning Application

The following points were considered in assessing the Rezoning Application:

#### Official Community Plan

The rezoning pertains solely to an increase of 36m<sup>2</sup> in the total floor space area of the existing dwelling. The resulting Floor Space Ratio (FSR), 0.80:1, is below the 1:1 prescribed base density under the Traditional Residential Urban Place Designation (UPD). Therefore, as the use and building form (a three-storey, ground-oriented dwelling) and the FSR are in alignment with the Traditional Residential UPD, the updates to the dwelling are considered generally consistent with the OCP.

#### Fernwood Neighborhood Plan

The *Fernwood Neighbourhood Plan* (2022) considers ground-oriented single-detached homes (with or without suites) as an important part of the city's housing stock and is supportive of diverse lower-scale forms. The three-storey dwelling fits within this context and hence is in line with the guidance in the Plan.

#### Housing Mix

The City's *Family Housing Policy* (effective as of September 1, 2024) provides targets for housing mix and unit type in Rezoning Applications for new multi-unit residential construction consisting of four or more stories.

As the project is under four storeys in height, the *Family Housing Policy* does not apply.

### Existing Tenants

There are no existing tenants in the secondary suite that is proposed to be decommissioned.

### **Development Variance Permit Application**

Variances are recommended for areas where the proposal is not consistent with the new proposed zone, which is based on the R1-B zone. This ensures that if the current dwelling is demolished, any future redevelopment would require consideration and approval by the City.

### Roof Decks

The applicant is requesting a variance to allow roof decks. The Juliet balcony on the eastern wall of the third floor and the landing of the north staircase are two structures that qualify as “roof decks” under *Schedule A* of the *Zoning Regulation Bylaw*.

The staircase landing is solely for access and does not provide opportunity for excessive overlook to the adjacent property.

The Juliet balcony on the third floor also does not present an opportunity for overlook to the neighbouring properties.

Therefore, the roof deck variance is considered supportable.

### Setbacks

The applicant is requesting variances for the two side-yard and the rear yard setbacks.

The proposed reduction of the rear yard setback from 7.82m to 5.66m is considered supportable because the resulting open site space in the rear yard remains significant.

The proposed reduction of the north side-yard setback from 3.0m to 0.49m is considered supportable as this relates solely to a staircase, and the main building is set back 1.68m from the property line and poses no negative impact to the neighbouring property.

The south side-yard variance is triggered by the encroachment of an unauthorized rear deck into the side yard. A six-foot screen is proposed along the southern edge of the rear deck to reduce overlook onto the adjacent property. Due to the improved privacy, and the fact that the main building structure is set back 2m from the south property line, the proposed reduction of the setback from 1.5m to 0.34m is considered supportable.

Consequently, the proposed reduction in the resulting total side-yard setback from 4.50m to 0.83m is also considered supportable.

### Site Coverage and Height

The applicant is requesting a variance increase the maximum site coverage from 40% to 42% and increase the height of the dwelling from 7.60m to 7.82m.

The increased site coverage is due to the addition of the rear deck.

The rear deck is also responsible for the height variance as its addition lowers the average grade of the structure, resulting in an increased height calculation.

These variances from the existing R1-B Zone are minor in nature and therefore considered supportable.

### **Tree Protection Bylaw and Urban Forest Master Plan**

There are no *Tree Protection Bylaw* impacts with this application.

### **CONCLUSIONS**

To conclude, the minor amendments to the zoning to legalize the unauthorized work are generally consistent with the OCP policies and the policies outlined in the *Fernwood Neighbourhood Plan*. The variances related to setbacks, site coverage, height and roof deck are minor and are considered supportable. Therefore, it is recommended that Council consider supporting the Rezoning Application and associated Development Variance Permit Application.

### **ALTERNATE MOTIONS**

That Council decline *Rezoning* Application No. 00879 and Development Variance Permit Application No.00289.

Respectfully submitted,

Aishwarya Pathania  
Planner  
Development Services Division

Karen Hoese, Director  
Planning and Development Department

Report accepted and recommended by the City Manager.

### **LIST OF ATTACHMENTS**

Attachment A: Subject Map  
Attachment B: Plans date stamped January 17, 2025  
Attachment C: Letter from applicant to Mayor and Council dated January 21, 2025  
Attachment D: CALUC exemption letter