



Committee of the Whole Report

For the Meeting of October 4, 2018

To: Committee of the Whole **Date:** September 20, 2018

From: Jonathan Tinney, Director, Sustainable Planning and Community Development

Subject: Rezoning Application No. 00643 for 1010 Fort Street

RECOMMENDATION

Direct staff to work with the applicant to refine the proposal to better meet the goals of the OCP and DCAP, and bring the Application back to Committee of the Whole after design revisions have been made and the Application has been reviewed by the Advisory Design Panel.

LEGISLATIVE AUTHORITY

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 482 of the *Local Government Act*, a zoning bylaw may establish different density regulations for a zone, one generally applicable for the zone and the others to apply if certain conditions are met.

In accordance with Section 483 of the *Local Government Act*, Council may enter into a Housing Agreement which may include terms agreed to by the owner regarding the occupancy of the housing units and provided such agreement does not vary the use of the density of the land from that permitted under the zoning bylaw.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Rezoning Application for the property located at 1010 Fort Street. The proposal is to rezone from the CA-42 Zone, Harris Green Commercial District, to a new zone in order to construct a nine-storey, mixed-use building with ground-floor retail and residential above.

The following points were considered in assessing this Application:

- the *Official Community Plan* (OCP, 2012) encourages the logical assembly of development sites to enable the best realization of development potential for the area. Given the existing context and development potential, land assembly with the adjacent

properties is strongly encouraged for a development of this size. A larger development site could more easily accommodate off-street parking and a taller building that is consistent with the Design Guidelines

- the subject property is designated Core Residential in the OCP, which supports diverse housing types including low-, mid- and high-rise, multi-unit residential and mixed-use buildings. The proposed use and height are consistent with this policy. The subject site, however, is not considered suitable for a taller building due to its size and context
- the *Downtown Core Area Plan* (DCAP) identifies this property within the Residential Mixed-Use District, which supports multi-residential development up to a height of 45m. The base density for a mixed-use development is a floor space ratio of 3:1 and a maximum of 5.5:1. The proposed use, density, and height are generally consistent with this policy. The subject site, however, is not considered suitable for a taller building due to its size and context
- although City policy identifies that an amenity contribution should be made in association with this proposal, the applicant has indicated that they are not proposing any contribution because the policy may change in the future to exempt rental residential proposals in certain cases. Under the proposed policy, a commitment to provide rental dwelling units for 10 years would not qualify for the exemption. The *City of Victoria Density Bonus Policy* identifies an amenity contribution target of \$129.17 per square meter for this proposal, which would result in an amenity contribution in the amount of \$219,125.28
- the proposal is for 53 rental dwelling units secured by legal agreement for a period of 10 years. The applicant is proposing to make ten of these units affordable rental units to fulfil a commitment associated with a previous rezoning application that is secured under a legal agreement on a different property (1201 Fort Street).

BACKGROUND

Description of Proposal

The proposal is to construct a nine-storey, mixed-use building with ground-floor retail fronting Fort Street with residential units above. The building has a floor space ratio (FSR) of 5.70:1 and a height of 35.15m.

The following changes from the current zone are being proposed and would be accommodated in the new zone:

- increasing the maximum floor space ratio from 2.5:1 to 5.70:1
- increasing the maximum number of storeys from 4 to 9
- increasing the maximum height from 15.50m to 34.85m
- decreasing the minimum front setback from 3.00m to 0.00m.

Variances related to building street frontage and parking are also being requested, and are discussed in the concurrent Development Permit with Variances Application report.

Affordable Housing Impacts

The applicant proposes the creation of 53 new residential units, which would increase the overall supply of housing in the area. The form of tenure for the residential units would be limited to rental tenure with a Housing Agreement for a period of 10 years (see Analysis section below).

Ten of these units would be affordable rental dwelling units to fulfil the requirements of a registered legal agreement associated with a previous rezoning application for a different property (see Relevant History section below). Since these were considered and committed to as a component of the previous application, they should not be considered as a community amenity contribution related to this Application.

Sustainability Features

The applicant has identified a number of sustainability features which will be reviewed in association with the concurrent Development Permit Application for this property.

Active Transportation Impacts

The Application proposes short-term bike storage (6 bikes) and long-term bike storage (68 bikes), which support active transportation. The number of long-term bike stalls exceeds the *Zoning Regulation Bylaw* requirements by ten stalls.

Public Realm Improvements

No public realm improvements are proposed in association with this Rezoning Application.

Accessibility Impact Statement

The British Columbia Building Code regulates accessibility as it pertains to buildings.

Land Use Context

The area is characterized by low and mid-rise commercial and mixed-use buildings.

Immediately adjacent land uses include:

- to the north – a nine-storey, multi-family residential building at 1029 View Street (Jukebox), which is currently under construction
- to the east – a one-storey commercial building, currently occupied by a restaurant (J&J Wonton Noodle House)
- to the west – a three-storey office building at 1006 Fort Street
- to the south – a four-storey office building at 1007 Fort Street.

Existing Site Development and Development Potential

The site is presently a single-storey commercial building containing a show room for a different development. Under the current CA-42 Zone, the property could be developed as a commercial or commercial/residential building up to 4 storeys (15.5m) in height with a floor space ratio of 2.5:1.

Relevant History

As part of a previous development application (Rezoning Application No. 00525), the applicant registered a Housing Agreement on the title of 1201 Fort Street to ensure that ten percent of the approved unit count, being no less than ten units, be provided as affordable rental units on that site or on another site within the City of Victoria. If the affordable units are not granted an occupancy permit by December 31, 2020, the applicant must provide \$25,000 per unit as a cash-in-lieu contribution to the City's Housing Reserve Fund. The affordable rental units must

be provided on the subject site, or on another site within the City of Victoria, and must be secured with a Housing Agreement.

The Rezoning Application that is the subject of this report proposes to fulfil this commitment by supplying ten affordable rental units. The remainder of the residential units (43 dwelling units) are proposed to be market rental units secured by legal agreement for a period of 10 years.

Data Table

The following data table compares the proposal with the existing CA-42 Zone, Harris Green Commercial District. An asterisk is used to identify where the proposal is less stringent than the existing zone. This proposal requires a Development Permit with Variances, which is discussed in a concurrent report.

Zoning Criteria	Proposal	Zone Standard CA-42 Zone
Site area (m ²) – minimum	628.30	N/A
Lot width (m) – minimum	18.41	N/A
Density (Floor Space Ratio) – maximum	5.70:1 *	2.50:1
Total floor area (m ²) – maximum	3581.61	N/A
Height (m) – maximum	34.85 *	15.50
Storeys – maximum	9 *	4
Building street frontage – building access (%) – maximum	36.00 *	25.00
Building street frontage – use occupation (%) - minimum	53.00 *	75.00
Setbacks (m) – minimum		
Front Lot Line (south)	0.00 *	3.00
Rear (north)	0.00	N/A
Side (east)	0.36	N/A
Side (west)	0.03	N/A
Parking (CA-42 Zone) – minimum	0	0
Parking (Schedule C) – minimum		
Residential	0 *	38

Zoning Criteria	Proposal	Zone Standard CA-42 Zone
Visitor	0 *	5
Commercial	0 *	2
Bicycle parking – minimum		
Long term	68	58
Short term	6	6

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, the applicant has consulted the Downtown Harris Green CALUC at a Community Meeting held on April 9, 2018. A letter dated April 26, 2018 is attached to this report.

ANALYSIS

Official Community Plan

The subject property is designated Core Residential in the *Official Community Plan* (OCP, 2012), which supports diverse housing types, including low-, mid- and high-rise, multi-unit residential and mixed-use buildings. The OCP does not include guidance for floor space ratios at this location. The proposal is consistent with the use and height envisioned in this Urban Place Designation; however, the subject site is not suitable for a taller building due to its size and context.

The OCP also encourages the logical assembly of development sites to enable the best realization of development potential for the area. Given the existing context and development potential, land assembly with the adjacent properties is strongly encouraged for a building of this size. This approach would achieve development more consistent with the policies in the OCP and Development Permit Area Design Guidelines, and enable off-street parking to be more easily provided.

Downtown Core Area Plan

The subject property is within the Residential Mixed-Use District in the *Downtown Core Area Plan* (DCAP), which supports multi-residential development up to a height of 45m. The base density for a mixed-use development is a floor space ratio of 3:1 and a maximum of 5.5:1. The proposal is generally consistent with the DCAP policies related to use, density and height; however, the subject site is not suitable for a taller building due to its size and context.

The design of the proposal does not meet the guidelines in the DCAP, as discussed in the concurrent report associated with the Development Permit with Variance Application.

Density Bonus Policy

The City of Victoria Density Bonus Policy identifies an amenity contribution target (fixed-rate target) for standard rezoning of properties designated "Core Residential" (less than 30,000 square feet of bonus density) in the OCP of \$129.17 per m². Since the OCP does not include floor space ratios for this location, the DCAP has been used to calculate the amenity contribution. Based on this calculation (increase from 3:1 to 5.70:1 floor space ratio), the applicant would be required to provide an amenity contribution in the amount of \$219,125.17. The DCAP policy indicates that this should be directed to the Downtown Core Area Public Realm Improvement Fund (75%) and the Downtown Heritage Buildings Seismic Upgrade Fund (25%).

Although City policy identifies that community amenity contributions are associated with this proposal, the applicant has indicated that they are not proposing any contribution because in the future the policy may change to exempt rental residential proposals in certain cases. The draft Inclusionary Housing and Density Bonus Policy was approved-in-principle by Council in early September proposes that 100% purpose-built rental projects be exempted from the policy provided that the tenure and affordability of the rental units are secured in perpetuity. The applicant is only proposing rental for 10 years, so the proposal would not be consistent with the policy in this respect. The Inclusionary Housing Policy will take effect March 31, 2019, and in the meantime the City will be consulting on this policy this fall, so it should be noted that the policy is not yet finalized and may be refined. The current Density Bonus Policy also provides an option for applicants to undertake a land lift analysis instead of the fixed rate; however, the applicant has not pursued this option.

Tree Preservation Bylaw and Urban Forest Master Plan

There are no impacts to bylaw-protected trees or impacts to public trees with this Application. Two existing trees on Fort Street (*Acer campestre* and *Magnolia kobus*) are to be retained in the public realm.

Regulatory Considerations

If Council chooses to approve the Application, the new zone would be based on the existing zone, but with increased density, height, number of storeys, and decreased front setback requirements as follows, which are generally consistent with the OCP and DCAP:

- increasing the maximum floor space ratio from 2.5:1 to 5.70:1
- increasing the maximum number of storeys from 4 to 9
- increasing the maximum height from 15.50m to 34.85m
- decreasing the minimum front setback from 3.00m to 0.00m.

Variances related to building street frontage and parking are also being requested and are discussed in the concurrent Development Permit with Variances Application report.

Housing Agreement Bylaw

The applicant is proposing 53 rental dwelling units secured by legal agreement for a period of 10 years. Ten of these units would be affordable rental dwelling units to fulfil the requirements of a previous legal agreement registered on the title of 1201 Fort Street as part of Rezoning Application No. 00525 (see Relevant History section above).

If Council chooses to move the Application forward, staff recommend for Council's consideration that these commitments be secured with legal agreements.

CONCLUSIONS

The proposal to construct a nine-storey, mixed-use building with approximately 53 dwelling units and one commercial retail unit is consistent with the OCP and DCAP with respect to the proposed land use and density; however, the subject property is not suitable for additional density in a taller building. Land assembly with adjacent properties would enable the best realization of development potential for this site. Staff recommend for Council's consideration that this Rezoning Application be referred back to staff to work with the applicant to refine the proposal to better meet the goals of the OCP and DCAP.

ALTERNATE MOTIONS

Option 1 (Decline Current Proposal)

That Council decline Rezoning Application No. 00643 for the property located at 1010 Fort Street.

Option 2 (Approve Current Proposal)

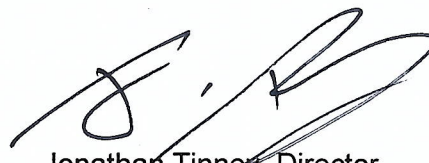
That Council direct staff to prepare the necessary Zoning Regulation Bylaw Amendments that would authorize the proposed development outlined in Rezoning Application No. 00643 for 1010 Fort Street, that first and second reading of the Zoning Regulation Bylaw Amendments be considered by Council, and a Public Hearing date be set once the following condition is met:

1. Preparation of a Housing Agreement Bylaw to the satisfaction of the Director of Sustainable Planning and Community Development, and executed by the applicant, to secure:
 - a. all dwelling units as rental housing for a period of 10 years
 - b. Ten of the dwelling units as affordable rental housing in perpetuity to satisfy the previous Housing Agreement requirements associated with 1201 Fort Street.

Respectfully submitted,



Rob Bateman
Senior Process Planner
Development Services Division



Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date:

Sept. 28, 2018

List of Attachments:

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped September 20, 2018
- Attachment D: Letter from applicant to Mayor and Council dated September 20, 2018
- Attachment E: Community Association Land Use Committee Comments dated April 26, 2018
- Attachment F: Correspondence.