



## **Committee of the Whole Report**

### **For the Meeting of June 6, 2019**

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**To:** Committee of the Whole **Date:** May 23, 2019

**From:** Andrea Hudson, Acting Director, Sustainable Planning and Community Development

**Subject:** Rezoning Application No. 00661 for 589 Toronto Street

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### **RECOMMENDATION**

That Council decline Rezoning Application No. 00661 for the property located at 589 Toronto Street.

### **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 589 Toronto Street. The proposal is to rezone from the R-2 Two Family Dwelling District Zone to a new, site-specific zone in order to allow for a third residential unit in an existing heritage-designated building with two approved units.

The following points were considered in assessing this application:

- the proposal is consistent with the density and use ranges established for this area, which is designated Traditional Residential in the *Official Community Plan* (OCP, 2012)
- the proposal is consistent with the James Bay Strategic Directions in the OCP to enable

- adaptation of the existing housing stock to maintain a variety of housing types
- the provision of two rental units secured on a time limited basis generally supports housing diversity and market rental housing policies outlined in the OCP
- the proposal does not advance the objectives of the *Pedestrian Master Plan*, 2008, or the *Greenways Plan*, 2003, and related OCP policies. An increase in density of development creates additional demand on the City's transportation infrastructure, which is undesirable if the improvements contemplated under the City's *Greenways Plan* and *Pedestrian Master Plan* cannot be constructed due to the insufficient right-of-way width of the existing street.

## **BACKGROUND**

### **Description of Proposal**

This Rezoning Application is to rezone from the R-2 Two Family Dwelling District Zone to a new, site-specific zone to allow for a third residential unit in an existing heritage-designated building. The proposal involves legalizing a previously unapproved dwelling unit and the previously unapproved conversion of attic space into habitable floor area. The proposal does not meet the existing R-2 Zone, Two Family Dwelling District, in terms of parking, number of units, floor space ratio (FSR), number of storeys, height and the use of a roof deck. The proposal also includes converting the crawlspace into a basement, which would not impact the FSR. The renovations required to legalize the previously unapproved work involve minor exterior changes, which are not included in the scope of this Rezoning Application. There is an associated Delegated Heritage Alteration Permit Application for the exterior changes, which will be processed if the Rezoning Application is approved.

The following changes from the current zone are being proposed and would be accommodated in the new zone, but would only apply to the existing building. New construction would be subject to the existing R-2 Zone:

- allow for three self-contained dwelling units within the building
- increase the maximum number of storeys from 2 to 2.5
- increase the maximum floor space ratio from 0.5:1 to 0.55 to 1
- allow for no parking on site for three units within the existing building
- increase the maximum height from 7.6m to 9.77m
- allow for a roof deck.

### **Affordable Housing Impacts**

The applicant proposes the creation of one new residential unit, which would increase the overall supply of housing in the area. A Housing Agreement is also proposed, which would secure two of the three units as rental for a period of five years or the duration of the current ownership, whichever is longer. This option is included in the alternate motion, should Council wish to consider it.

### **Sustainability Features**

The applicant has not identified any sustainability features associated with this proposal.

### **Active Transportation Impacts**

The applicant has not identified any active transportation impacts associated with this application.



## **Public Realm Improvements**

### Statutory Right-of-Way Request

The standard right-of-way for a secondary collector street is 20.0m; however, current and future transportation and greenway related needs on the corridor can be met with a right-of-way width of 14.0m. To achieve this minimum on this portion of Toronto Street, and in order to address the concern that additional density in the area is undesirable without the potential for future improvements to the adjoining street (as referred to below), staff requested that the applicant consider offering a 2.0m Statutory Right-of-Way (SRW) for public realm improvement purposes on a voluntary basis. The applicant is not prepared to offer an SRW in the City's standard terms and has proposed a condition for the terms of the SRW that staff are not prepared to recommend to Council.

Toronto Street has been identified by Council as part of the community greenway and bicycle networks in the *Greenways Plan* and *Bicycle Master Plan*. The *Pedestrian Master Plan* indicates minimum clear sidewalk widths of 1.5m for roads such as Toronto Street. An SRW would help achieve this minimum clear sidewalk width on Toronto Street, facilitating a sidewalk free of obstructions such as utility poles and sign posts to better serve pedestrians, including those with mobility challenges. Sidewalks separated from the curb by a boulevard would separate pedestrians from motor vehicle traffic and would create a more level surface by avoiding the sloped portion of driveway crossings. Boulevards with street trees support numerous community objectives and are also features currently missing on Toronto Street due to its current width. An SRW would support these objectives and standards along Toronto Street. This requested 2.0m SRW has been achieved on nearby properties and is necessary to ensure the minimum service level needs of the existing community and of future growth.

The Rezoning Application involves adding additional density to the site by adding floor area and one unit more than what is permitted in the existing zone. The proposed rezoning would confer an additional benefit to the site, which would in turn create higher service needs compared to zones with lower density. The fact the third unit and additional floor area are existing and unapproved does not change these factors.

For these reasons, staff recommend for Council's consideration that the application is not supportable.

### Proposed Statutory Right-of-Way Conditions

If a Statutory Right-of-Way were secured along this frontage, public improvements would not likely occur unless and until a SRW had been secured on adjacent lots. The applicant has indicated that they would be willing to enter into a SRW agreement with the condition that the SRW not be utilized until the existing building on the site has been demolished or substantially destroyed, or until the City has obtained the same 2m right-of-way along all lots on the south side of Toronto Street within the same block. The proposed SRW does not encroach over the existing building and it may be possible to make right-of-way improvements to portions of Toronto Street as the opportunity becomes available and while the existing structure remains. For these reasons, staff recommend for Council's consideration that the applicant's proposed condition is not supportable.

## **Accessibility Impact Statement**

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

## Land Use Context

The area is characterized by a mix of single-detached dwellings, house conversions and duplexes. Immediately adjacent to the site is a hotel, and there are a number of low-rise multi-unit residential buildings on nearby streets. The James Bay Urban Village is one and a half blocks to the west.

## Existing Site Development and Development Potential

The site is presently approved as a two dwelling unit building. The building was converted from a single family dwelling to a two-family dwelling in the 1920s. There is a third unit in the building that is unapproved.

Under the current R-2 Two Family Dwelling District Zone, the property could be developed as a single-family dwelling. A new two-family dwelling would not be permitted as the property does not meet the minimum lot size.

## Data Table

The following data table compares the proposal with the R-2 Zone, Two Family Dwelling District. An asterisk is used to identify where the proposal is less stringent than the existing zone; two asterisks identify where this is an existing condition.

Zoning Criteria	Proposal	Existing Zone R-2
Site area (m <sup>2</sup> ) – minimum	423.0 **	555.0
Lot width (m) – minimum	15.7	15.0
Number of units – maximum	3 *	2
Density (Floor Space Ratio) – maximum	0.55:1 *	0.5:1
Combined floor area (m <sup>2</sup> ) – maximum	348.0	380.0
First and second storey floor area (m <sup>2</sup> ) – maximum	188.0	280.0
Height (m) – maximum	9.77 *	7.6
Storeys – maximum	2.5 *	2
Site coverage (%) – maximum	36	40
Open site space (%) – minimum	64	30
Roof Deck	Yes *	Not Permitted
Basement	Yes	Permitted



Zoning Criteria	Proposal	Existing Zone R-2
<b>Setbacks (m) – minimum</b>		
Front	3.95 **	7.5
Rear	4.6 **	11.11
Side (West)	2.5	1.57
Side (East)	2.85 **	3.0
Combined side yards	5.35	3.0
<b>Parking (stalls) – minimum</b>		
Vehicle parking	0 *	3
Bicycle parking stalls – long term	0	0
Bicycle parking stalls – short term	0	0

### Relevant History

The heritage-designated house was built in 1903 and was moved twice before moving to the current location on Toronto Street. The third unit, which is currently unapproved, has existed in the space for quite a few years. Records from the Victoria Heritage Foundation indicate that the house was converted to a four unit building in the 1940's, however there are no records of City approval for this conversion.

### Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant has consulted the James Bay CALUC at a Community Meeting held on August 12, 2018. A letter dated August 15, 2018 is attached to this report.

## ANALYSIS

### Official Community Plan

The proposal to convert the existing two-family dwelling building to three units at a density of 0.55:1 Floor Space Ratio (FSR) is consistent with the Traditional Residential Urban Place Designation in the *Official Community Plan (OCP)*, which envisions a density of up to approximately 1:1 FSR and includes conversions of the existing housing stock. The three dwellings units within the existing heritage-designated building is consistent with OCP policies to support a range of housing types, forms and tenures within neighbourhoods. Further, the proposal is consistent with the James Bay Strategic Direction to adopt and renew the existing building stock and maintain an interesting diversity of housing types and character areas.

## **Tenant Assistance Policy**

The proposal is to renovate an existing building in order to legalize an existing, previously unapproved unit within the rental building. There is one tenant within the building, who occupies the unit proposed to be legalized. The Tenant Assistance Policy is not required in this case as the tenant has lived in the unit for less than a year before the rezoning application was opened. The tenant was made aware of the renovations since the beginning of their tenancy and has confirmed that the nature of the tenancy agreement was time limited based on the renovations related to the application.

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

There are no Tree Preservation Bylaw impacts with this application and there are no impacts to public trees with this application.

There are five existing privately-owned trees on site that will not be affected by the proposed additional suite: a 50cm horse chestnut, 40cm Flowering plum, 35cm hawthorn, 25cm Japanese maple, and 20cm holly.

## **Regulatory Considerations**

### Vehicle Parking

The application includes a three-stall vehicle parking shortfall. There has never been parking on site and there is no room on the relatively small lot to accommodate parking. The parking requirement is one stall per unit. The variance applies to the lack of parking for the two approved units as well as the existing unapproved unit. While the proposal technically involves an additional shortfall of one stall, in practice, all three units already exist on the property. While there is minimal parking available on the immediate street frontage, the site is located within walking distance to the James Bay Urban Village and Downtown. Further, Toronto Street is identified as part of the bicycle network in the Greenways Plan. No long or short term bike parking stalls are required and none are being provided; however, there is potential for long term bike parking in the new basement area. Given these considerations, staff recommend for Council's consideration that the parking shortfall is supportable.

### Floor Space Ratio, Number of Storeys and Number of Units

The floor area is increasing because the attic space was previously excluded from the total floor area calculation. By converting the attic into a habitable space, it is now included in the total floor area. With the added floor area of the attic space, the floor space ratio exceeds what is permitted in the existing R-2 Zone, Two Family Dwelling District. Attic space is also not counted as a storey, so converting it to floor area results in an additional half storey.

The additional floor area and additional half-storey are all within the existing building envelope. Developing the attic space by legalizing the existing work does not have significant impacts on the building or neighbouring properties. An associated Delegated Heritage Permit is underway to address the minor exterior changes required for exiting from this storey.

The proposal also includes developing the existing crawlspace into a basement. The additional floor space resulting from the basement and the attic space does not exceed the maximum permitted in the existing R-2 Zone, Two Family Dwelling District. The basement area does not



count toward the FSR. In this way, adding the basement space does not cause any further contraventions with the existing zoning.

Given the minimal impact to neighbouring properties and the existing siting of the building, staff recommend for Council's consideration that the additional floor space ratio and additional half storey are supportable.

### Roof Deck and Height

The proposal includes the creation of a roof deck, which is a deck above the second storey. In this case, the roof deck is located at the rear of the building on the third storey. The reason for this deck is to comply with BC Building Code exiting requirements for the portion of the unit on the third storey. To create the deck, an additional dormer was added. While the deck is relatively small, it could potentially have some level of privacy impact on the neighbouring property. Because of the additional dormer, the building height is increasing, despite the fact that the actual peak of the roof would remain the same height. This is due to the way that height is calculated: it is measured as the midpoint between the highest peak and the highest eave. The roof deck dormer is increasing the height of the highest eave. The building was already taller than the maximum of 7.6m permitted the existing zone. The roof deck dormer is raising the height of the building by 0.97m for a new height of 9.77m. The heritage and design considerations of the exterior changes related to the dormer are being addressed through an associated Delegated Heritage Alteration Permit Application. Given the relatively small size of the roof deck, its utility in meeting BC building code existing requirements and the minor impacts of the change to height, allowing for the roof deck and increase to height are supportable.

### Additional Differences from the Existing Zoning

In addition to the changes to the parking, FSR and number of storeys, there are a number of differences between the existing building and the current R-2 Zone, Two Family Dwelling District, that are not changing but would be incorporated into the new zone. These differences are:

- smaller site area compared to the minimum permitted for a two family dwelling
- reduced front, rear and East side yard setbacks
- reduced side and rear yard setbacks of existing shed and reduced separation space between shed and existing building
- reduced rear yard open space.

As with the parking, FSR and number of storeys, these differences would be incorporated into the new zone and would be limited to the existing building. If a new building were to be constructed, it would be subject to the same R-2 Zone, Two Family Dwelling District regulations that the property is currently subject to.

## **CONCLUSIONS**

The proposed increase in density to legalize the existing residential unit within the heritage designated house is generally consistent with aspects of the OCP related to the Traditional Residential land use designation and the Local Neighbourhood Plan in terms of sensitive infill. However, the application would allow an increase in density which brings with it higher demands on the City's transportation services, and the adjoining street cannot accommodate increased demands in use without the potential for the City proceeding in the future with the improvements contemplated under the *Greenways Plan*, *Bicycle Master Plan* and the *Pedestrian Master Plan*. For this reason, staff recommend for Council's consideration that the application be declined.



An alternative motion is provided below should Council wish to advance it for consideration at a Public Hearing.

### ALTERNATE MOTION

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00661 for 589 Toronto Street, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Preparation and execution of a Housing Agreement to secure two units as rental for a period of five years, or the duration of the current ownership of the property, whichever is longer.

Respectfully submitted,




Chloe Tunis  
Planner  
Development Services Division



Andrea Hudson, Acting Director  
Sustainable Planning and Community  
Development Department

Report accepted and recommended by the City Manager:

  
Date: May 28, 2019

### List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped May 10, 2019
- Attachment D: Letter from applicant to Mayor and Council dated May 21, 2019
- Attachment E: Community Association Land Use Committee Comments dated August 15, 2018.