



## Committee of the Whole Report For the Meeting of July 25, 2019

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**To:** Committee of the Whole **Date:** July 11, 2019  
**From:** Andrea Hudson, Acting Director, Sustainable Planning and Community Development  
**Subject:** Development Permit with Variances Application No. 00060 for 1811 Oak Bay Avenue

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### RECOMMENDATION

That, subject to the preparation and execution of the following legal agreements in a form satisfactory to the City Solicitor:

- a. a Housing Agreement to ensure a future strata cannot restrict the rental of dwelling units, to the satisfaction of the Director of Sustainable Planning and Community Development
- b. a Section 219 covenant to secure a Statutory Right-of-Way of 3.35m along the Oak Bay Avenue frontage to the satisfaction of the Director of Engineering and Public Works.

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

"That Council authorize the issuance of Development Permit with Variance Application No. 00060 for 1811 Oak Bay Avenue, in accordance with:

1. Plans date stamped April 5, 2019.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
  - i. reduce the minimum lot size for multiple dwelling use from 920.0m<sup>2</sup> to 799m<sup>2</sup>;
  - ii. increase the maximum site coverage from 32 percent to 74.5 percent;
  - iii. reduce the minimum open site space from 60 percent to 23.4 percent;
  - iv. reduce the minimum front setback (east) from 12m to 2.63m (to privacy screen) and 3.58m (to building);
  - v. reduce the minimum rear setback (west) from 8.41m to 4.32m (to building) and 0.0m (to parkade structure);
  - vi. reduce the minimum side setback (north) from 8.41m to 1.99m;
  - vii. reduce the minimum side setback (south) from 8.41m to 3.12m (to building) and 0.0m (to parkade structure).
3. The Development Permit lapsing two years from the date of this resolution."

## LEGISLATIVE AUTHORITY

In accordance with Section 489 of the *Local Government Act*, Council may issue a Development Permit in accordance with the applicable guidelines specified in the *Official Community Plan*. A Development Permit may vary or supplement the *Zoning Regulation Bylaw* but may not vary the use or density of the land from that specified in the Bylaw.

Pursuant to Section 491 of the *Local Government Act*, where the purpose of the designation is the revitalization of an area in which a commercial use is permitted, a Development Permit may include requirements respecting the character of the development, including landscaping, and the siting, form, exterior design and finish of buildings and other structures.

## EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Permit with Variance Application for the property located at 1811 Oak Bay Avenue. The proposal is to construct a five-storey building with approximately 14 multiple dwelling units. The variances are related to reduced site size, setbacks and open space, and increased site coverage.

The following points were considered in assessing this application:

- the proposal is generally consistent with the Design Guidelines for Development Permit Area 7: Corridors, which encourage human-scaled development that contributes to an attractive streetscape
- the proposal to remove two mature trees, one of which is bylaw-protected, is inconsistent with the Gonzales Neighbourhood Community Plan which encourages the retention of trees that contribute to the green character of the neighbourhood; however, the provision of enhanced landscaping, replacement trees and new boulevard trees is consistent with the Plan's direction to enhance the neighbourhood's green character
- the applicant would provide a 3.35m Statutory Right-of-Way along Oak Bay Avenue to help achieve a standard arterial roadway
- the variance related to minimum lot size is considered supportable because the site is a corner property with limited opportunity for consolidation with adjacent properties
- the setback variances are considered supportable as the proposal provides a sensitive transition with adjacent properties and the most significant setback variances (west and south) are only for the projecting portion of the parkade structure while the habitable portions of the building are set further back from the property lines; compliance with the setback requirements would severely restrict the potential development of this site
- the variances related to site coverage and open site space are due to the projecting portion of the underground parkade and considered supportable because the roof of the parkade will be extensively landscaped to contribute to an attractive streetscape, provide outdoor amenity space for the residents and add privacy screening with adjacent properties
- the underground parking structure extends to the west property line which would result in the removal of one bylaw protected Bigleaf maple tree; an Arborist Report was provided with this application which indicates the tree is diseased and likely in poor structural condition and recommends its removal
- due to the possibility of shared ownership of the Bigleaf maple tree with the property located at 1807 Oak Bay Avenue, staff will ensure the notification associated with this Development Permit with Variances Application references the removal of this tree as an impact of the proposed setback and site coverage variances.

## BACKGROUND

### Description of Proposal

The proposal is for a five-storey residential building with multiple dwelling units. Specific details include:

- low-rise building form with massing close to Oak Bay Avenue terracing down to the south, where the site abuts lower density, traditional residential development
- one level of underground parking with 19 stalls accessed via Bank Street
- parkade roof projecting above grade with hard and soft landscaping
- two ground-oriented dwelling units fronting onto Bank Street
- a mix of 1,2 and 3 bedroom units
- prominent main entrance fronting Oak Bay Avenue
- exterior access and circulation space located along the west side of the building with decorative metal screening
- separate outdoor space for each unit in the form of either a patio, balcony or roof deck
- provision of a Statutory Right-of-Way (SRW) along Oak Bay Avenue to accommodate sidewalk realignment and to provide a boulevard and two new street trees
- two new boulevard trees along Bank Street within the existing boulevard.

Exterior materials include:

- white, grey and charcoal coloured stucco as the predominant exterior material
- light coloured brick applied to the ground level and portions of the second storey on the street-facing façades
- balconies consist of metal and glass guardrails with copper coloured perforated metal panels affixed to the front
- charcoal and green coloured vinyl framed windows
- stainless steel cable net with copper coloured perforated metal panels to screen the exterior access/circulation area
- stained cedar siding at the Oak Bay Avenue entrance to the building and above the parkade entrance on Bank Street.

Landscaping elements include:

- terraced planter beds along the Bank Street frontage
- a raised concrete planter along the Oak Bay Avenue frontage to soften the building edge
- common outdoor amenity space on the west side of the building
- perimeter beds with a mix of shrubs, ground covers, perennials, grasses and deciduous trees
- a perimeter evergreen hedge near the southwest corner of the site to provide privacy screening
- climbing vines along the west façade supported by steel cables and along the south property line on a metal mesh fence
- four bylaw replacement trees.

The proposed variances are related to:

- reduce the minimum lot size for multiple dwelling use from 920.0m<sup>2</sup> to 799m<sup>2</sup>;
- increase the maximum site coverage from 32 percent to 74.5 percent;
- reduce the minimum open site space from 60 percent to 21.75 percent;
- reduce the minimum front setback (east) from 12m to 2.63m (to privacy screen) and

- 3.58m (to building);
- reduce the minimum rear setback (west) from 8.41m to 4.32m (to building) and 0.0m (to parkade structure);
- reduce the minimum side setback (north) from 8.41m to 1.99m;
- reduce the minimum side setback (south) from 8.41m to 3.12m (to building) and 0.0m (to parkade structure).

### **Affordable Housing Impacts**

The applicant proposes the creation of approximately 14 new residential units which would increase the overall supply of housing in the area. Given the new building would replace an existing five-unit rental building, staff encouraged the applicant to consider providing a rental Housing Agreement with this proposal. Although the applicant has not offered to secure the units as rental, a Housing Agreement is being proposed which would ensure that future Strata Bylaws could not prohibit the rental of units. The appropriate language has been added to the recommendation.

### **Tenant Assistance Policy**

The proposal is to demolish an existing five-unit rental building. Only one of the units is currently occupied. Although it is not a requirement for Development Permit Applications, consistent with the Tenant Assistance Policy, the applicant has provided a Tenant Assistance Plan which is attached to this report.

### **Sustainability Features**

As indicated in the applicant's letter dated March 18, 2019, sustainability features associated with this application include construction to current Step Code Requirements, low VOC materials and finishes, water-conserving plumbing fixtures and storm water detention and pre-treatment facilities.

### **Active Transportation Impacts**

The application proposes 21 long term bicycle parking stalls and six short term bicycle parking stalls, which support active transportation.

### **Public Realm Improvements**

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

### **Accessibility Impact Statement**

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

### **Existing Site Development and Development Potential**

The site is presently developed as a two-storey residential building with five rental dwelling units.

The site is comprised of three legal lots. Under the current R3-2 Zone, Multiple Dwelling District, and subject to the provisions of the R1-B Zone, Single Family Dwelling District, each lot could

be developed with a single-family dwelling (with a secondary suite or garden suite) for a total of six dwelling units. Alternatively, the lots could be consolidated and developed as a duplex, subject to the provisions of the R-2 Zone, Two Family Dwelling District.

### Data Table

The following data table compares the proposal with the existing R3-2 Zone. An asterisk is used to identify where the proposal is less stringent than the existing zone.

Zoning Criteria	Proposal	Zone Standard	OCP Policy
Site area (m <sup>2</sup> ) – minimum	<b>799.62 *</b>	920.00	
Density (Floor Space Ratio) – maximum	1.6:1	1.6:1	1.2:1 up to approximately 2.0:1
Height (m) – maximum	16.90	18.50	
Storeys – maximum	5	N/A	Up to approximately 6 storeys
Site coverage (%) – maximum	<b>74.24 *</b>	32.00	
Open site space (%) – minimum	<b>21.95 *</b>	60.00	
<b>Setbacks</b> (m) – minimum			
Front (Bank Street)	<b>3.58 *</b> (to building) <b>2.63 *</b> (to privacy screen Level 1)	12.00	Variable setbacks
Rear (west)	<b>4.32 *</b> (to building) <b>0.00 *</b> (to parkade)	8.41 (half the building height)	
Side (Oak Bay Avenue)	<b>1.99 *</b> (to building)	8.41 (half the building height)	
Side (south)	<b>3.12 *</b> (to building) <b>0.00 *</b> (to parkade)	8.41 (half the building height)	
Vehicle parking – minimum	19	17	
<b>Bicycle parking stalls</b> – minimum			
Class 1	21	18	
Class 2	6	6	



## Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, on December 7, 2017 the application was referred for a 30-day comment period to the Fairfield Gonzales CALUC. At the request of the South Jubilee and Fairfield Gonzales CALUCs, the applicant attended a community meeting on January 4, 2018 to discuss the proposal. A summary of the meeting is attached to this report.

This application proposes variances; therefore, in accordance with the City's *Land Use Procedures Bylaw*, it requires notice, sign posting and a meeting of Council to consider the variances.

## Advisory Design Panel

The application was referred to the Advisory Design Panel (ADP) on November 28, 2018. The ADP was asked to comment on the overall building and landscape design, with particular attention to the following aspects of the proposal:

- exterior access location and screening
- the proposal's relationship to adjacent properties.

The ADP meeting minutes are attached for reference, and the following motion was carried:

"... that Development Permit with Variances Application No. 00060 for 1811 Oak Bay Avenue be approved subject to the following changes:

- simplify and resolve the cladding materials
- resolve the fenestration with regards to interior layouts and privacy
- reconsider the interior configuration of the ground floor unit 101 to remove bedrooms from proximity to the Oak Bay avenue frontage
- reconfigure the parkade structure to retain the existing maple tree at the southwest corner property line, if feasible."

The applicant provided a letter in response to the ADP motion, dated January 2, 2019, which is attached to this report.

## ANALYSIS

### Development Permit Area and Design Guidelines

The subject site is designated as Urban Residential in the Official Community Plan (OCP), which envisions attached and detached buildings up to three storeys as well as multi-unit buildings up to approximately six storeys. The Plan envisions variable setbacks with doors oriented to the street and front yard landscaping, boulevards and street trees. Off-street parking is also envisioned in the rear yard or underground.

The site is within Development Permit Area 7A: Corridors. The objectives for DPA 7A relevant to this site are:

- *To revitalize areas of commercial use along corridors through high quality architecture, landscape and urban design to enhance their appearance, achieve coherent design along corridors, strengthen commercial viability and encourage pedestrian use*
- *To enhance the function of Gorge Road East, Fort Street, Hillside Avenue, Oak Bay*

*Avenue, Esquimalt Road and Shelbourne Street as frequent transit corridors through transit-oriented streetscaping, with the design of adjacent development to support and advance this objective*

- *To ensure corridors are compatible with adjacent and nearby lower density residential neighbourhoods through human-scaled urban design and a sensitive transition in building form and place character.*

The applicable design guidelines are the *Advisory Design Guidelines for Buildings, Signs and Awnings* and the *Guidelines for Fences, Gates and Shutters*.

The proposed building provides a prominent and inviting front entrance with a seating bench and pedestrian lighting facing Oak Bay Avenue. The ground level units have individual entrances and front patios facing Bank Street. Upper storey balconies on the east and north façades are oriented to face the street. These features contribute to an enhanced streetscape and pedestrian friendly residential environment on the edge of the Small Urban Village on Oak Bay Avenue.

Both frontages include front yard landscaping, although the landscaping on Oak Bay Avenue is minimal given the constraints of having the sidewalk realigned to the interior boundary of the 3.35m Statutory Right-of-Way (SRW). Provision of the SRW does allow for realignment of the sidewalk, creation of a grassed boulevard and two new street trees that contributes to a more attractive streetscape.

The building massing is located closer to the Oak Bay Avenue corridor and terraces down in height to the south to provide a more sensitive transition with the single-family dwellings along Bank Street. This design approach ensures the building is compatible with adjacent lower density residential development, consistent with the guidelines. The material palette for the building is complimentary to buildings found in the surrounding area, while the copper balcony panels and exterior stair screens provide visual interest and character.

For the reasons noted above, staff consider that the proposal generally complies with the OCP objectives and relevant design guidelines for the site.

### **Local Area Plans**

The *Gonzales Neighbourhood Community Plan* (2002) encourages new development that minimizes the impact on the green character of the neighbourhood. The removal of bylaw protected and/or mature trees lacks consistency with this policy; however, the contribution of new street trees, green boulevard space and enhanced on-site landscaping is consistent with this policy. Staff recommend that the proposal is generally consistent with the *Gonzales Neighbourhood Community Plan* (2002).

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

There are two bylaw-protected trees on the subject site. One is a 100cm diameter and breast height (DBH) Bigleaf maple that straddles the west property boundary. One is a 15cm DBH dead Dogwood Tree. Both are proposed for removal. Two arborist reports (attached) were submitted that ascertained the Bigleaf maple is in an unhealthy condition and would most likely not withstand the excavation impacts for the proposed underground parkade and building construction. This tree offers a significant buffer to the subject site from the neighbor's condominium building, and the applicant is proposing to replace the tree with a large Red maple tree. Several other trees are located along the neighbor's property to the west. They are non-

bylaw-protected trees (Ginkgos, Leylandi cypress, and hedging material) and are to be retained and protected during construction. A Leylandi hedge on the south property boundary would be removed and replaced with a fence screen with vine planting. Eight new trees are proposed on the landscape plan throughout this proposed development. Due to the potential shared ownership of the 100cm DBH Bigleaf maple, staff would include reference to this tree's potential removal in the notification associated with this Development Permit with Variances Application should Council choose to advance the proposal to an Opportunity for Public Comment.

There is a public 10cm DBH Flowering cherry tree in good health located on Bank Street. Four additional boulevard trees are proposed with this application on Oak Bay Avenue and Bank Street. Their species will be determined at building permit phase.

### **Statutory Right-of-Way**

The standard right-of-way for a secondary arterial street, such as Oak Bay Avenue, is 25.0m. To help achieve this width, the applicant is offering a Statutory Right-of-Way (SRW) of 3.35m on the Oak Bay Avenue frontage. The recommended motion provided for Council's consideration includes the necessary language to secure the SRW.

### **Regulatory Considerations**

The proposal seeks several variances to reduce minimum site size, setbacks and open space, and increase maximum site coverage.

#### Site Size

The R3-2 zone requires a minimum lot size of 920m<sup>2</sup> for multiple dwelling development. The site is approximately 799m<sup>2</sup>; therefore, the application seeks to reduce the minimum site size by approximately 121m<sup>2</sup>. This variance is considered supportable because the site is a corner property with limited opportunity for consolidation with adjacent properties.

#### Setback Variances

Compliance with the setback requirements under the R3-2 Zone would severely restrict the potential development of this site; therefore, the proposal is seeking to vary the setback requirements to all property lines. While some of the variances are substantial, the proposal provides a sensitive transition with adjacent properties through stepping back of the upper storeys and building articulation. The most significant setback variances (west and south) are only for the projecting portion of the parkade structure; the habitable portions of the building, while still requiring a variance, are set further back from the property lines. Perimeter landscaping would also help with privacy screening to adjacent properties.

On the Oak Bay frontage, the ground floor would be setback approximately 3.9m and the fourth and fifth storeys would be setback approximately 4.2m. The minimum setback of 1.99m is measured to the second and third storeys which project over the realigned sidewalk. Staff consider these setbacks and projections as supportable as a 2.55m vertical distance is maintained above the sidewalk to provide sufficient clearances for pedestrians, the building setback is generally consistent with other newer buildings along Oak Bay Avenue and the reduced setback is appropriate given the site is in a transitional location along Oak Bay Avenue with primarily residential uses to the west and commercial retail properties to the east along Oak Bay Avenue.



## Site Coverage & Open Site Space

The variances related to site coverage and open site space are primarily due to the projecting portion of the underground parkade and considered supportable because the roof of the parkade will be extensively landscaped to contribute to an attractive streetscape, provide outdoor amenity space for the residents and add privacy screening with adjacent properties.

## **CONCLUSIONS**

The proposed development is generally consistent with the applicable Design Guidelines and includes high-quality building materials and landscape finishes. The contemporary design adds to the existing character of the Oak Bay corridor and the potential impact of the variances has been mitigated through building design and landscaping. Therefore, staff recommend for Council's consideration that Council advance the application to an Opportunity for Public Comment.

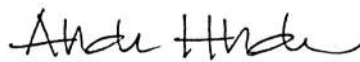
## **ALTERNATE MOTION**

That Council decline Development Permit with Variances Application No. 00060 for the property located at 1811 Oak Bay Avenue.

Respectfully submitted,



Alec Johnston  
Senior Planner  
Development Services Division



Andrea Hudson, Acting Director  
Sustainable Planning and Community  
Development Department

Report accepted and recommended by the City Manager:



Date:



## **List of Attachments**

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped April 5, 2019
- Attachment D: Letter from applicant to Mayor and Council dated March 18, 2019
- Attachment E: Community Association Land Use Committee Comments dated January 4, 2018
- Attachment F: Tenant Assistance Plan
- Attachment G: Arborist Reports dated March 13, 2019 and April 15, 2019
- Attachment H: Advisory Design Panel meeting minutes dated November 28, 2018
- Attachment I: Letter from the applicant in response to ADP motion, dated January 2, 2019
- Attachment J: Correspondence.