



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

---

**To:** Committee of the Whole

**Date:** July 11, 2019

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

**Subject:** Rezoning Application No. 00696 for 1002 Pandora Avenue

---

### RECOMMENDATION

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00696 for 1002 Pandora Avenue, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set.

### LEGISLATIVE AUTHORITY

In accordance with Section 479 of the *Local Government Act*, Council may limit the vertical extent of a zone and provide for other zones above or below it and further 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.

### 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 1002 Pandora Avenue (referred to as 1008 Pandora Avenue by the applicant). The proposal is to amend the site-specific zoning applicable to the property (CA-75 Zone, Pandora Vancouver Mixed Use District) to facilitate the creation of an air space subdivision for an existing building.

The following points were considered in assessing this application:

- No further development rights would be facilitated with this airspace proposal.
- All existing agreements with the City of Victoria remain intact and will be assigned to the appropriate parcels.
- This application represents a technical amendment to the existing zone to accommodate the developer's request to simplify the ownership and management of the commercial component (six retail units) in relation to the residential component of the development.

## **BACKGROUND**

### **Description of Proposal**

This Rezoning Application is to amend the CA-75 Zone (Pandora Vancouver Mixed Use District) to allow an air space subdivision of the six commercial lease areas to accommodate the ownership and operational plan. In essence, the project developer is requesting that the commercial lease areas become separate entities from the residential component of the development for ease of long term management of the project.

### **Affordable Housing Impacts**

The housing agreements that were part of the previous approvals for this property will not be affected by the air space subdivision.

### **Sustainability Features**

The sustainability features that were part of the previous approvals for this property will not be affected by this application.

### **Active Transportation**

The active transportation features that were part of the previous approvals for this property will not be affected by the airspace subdivision proposal.

### **Public Realm Improvements**

The public realm and frontage works associated with development have been secured and will not be affected by the application.

### **Site Development**

On October 8, 2015, Council approved the rezoning and development permit for the subject parcel to allow a mixed use development with a four storey and a six storey building. This project is currently under construction in accordance with the approved plans. It is anticipated that the first residential units will be occupied in August.

Any further consideration of development rights (density) for this property would require a rezoning application.

### **Relevant History**

### **Community Consultation**

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant consulted the North Park CALUC at a Community Meeting held on May 15, 2019. A letter dated May 15, 2019 is attached to this report.

## ANALYSIS

### Official Community Plan and Local Area Plan

There is no specific policy guidance for this type of application. This application falls within the development permit exempted class of subdivisions.

### Regulatory Considerations

The application is to create an air space parcel for each of the commercial units (six retail units in total) and for the residential portion, along with the associated parking and service areas for each component. The applicant's letter, dated May 17, 2019, provides more detail on each air space parcel. The proposed plan is also provided as an attachment.

The *Land Title Act* provides for air space parcels. The Act defines an "air space parcel" as:

"A volumetric parcel, whether or not occupied in whole or in part by a building or other structure, shown as such in an air space plan".

Basically, an air space plan (composed of a number of air space parcels) involves a 3-D profile (volumetric parcel) of the building, mechanical equipment, utilities and boundaries. In addition to the survey plan, the air space parcel agreement will contain the terms and conditions of easement and any covenants. The preparation and execution of the agreements associated with the air space parcel will be to the satisfaction of the Approving Officer and the City Solicitor. Through this process, the following will be detailed:

- the relationship between the commercial and residential interests, including any shared costs and liabilities
- the transfer of existing legal notation and charges to the appropriate air space parcels
- compliance with applicable City regulations, the *Local Government Act* and provincial building regulations.

The main consideration for the developer is that each commercial lease can be entered into separately without involvement of the residential component of the development. If the commercial units were part of a typical building strata then all units (including the commercial units) would form part of the strata corporation, and the decision-making on issues that affect the strata can become complicated based on the apportionment of votes and voting procedures.

As an air space parcel is considered a subdivision, each proposed parcel would have to meet the requirements set out in the *Zoning Regulation Bylaw* related to criteria such as:

- parcel size
- site coverage
- open site space
- setbacks
- vehicular and bicycle parking.

To facilitate this air space subdivision, an amendment to the site specific zone is required that would exempt air space parcels from the specific standards, but the standards would still be applicable to the overall development of the site, and no further development rights would be granted to the development.

Air space plans within the City of Victoria have been employed at Capital Park and The Hudson developments. The use of air space plans is a common tool used in larger municipalities, especially within the Lower Mainland. A common example of an air space parcel is an aerial walkway over a street that links the access to two buildings. Air space plans are frequently created for mixed use buildings.

### Resource Impacts

The legal costs of preparing the air space agreement will be borne by the applicant.

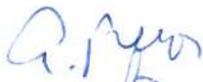
### CONCLUSIONS

Staff recommend for Council's consideration that Council forward the application for consideration at a Public Hearing. The proposal to amend the CA-75 Zone, Pandora Vancouver Mixed Use District, to facilitate an air space plan for six commercial units and the residential remainder will have no impact on the physical form, development and the previously approved agreements assigned to this development. The application represents a technical amendment to the *Zoning Regulation Bylaw* that is applicable only to this property and will assist the developer in the overall management of the project.

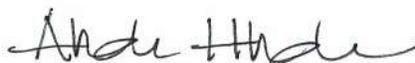
### ALTERNATE MOTION

That Council decline Rezoning Application No. 00696 for the property located at 1002 Pandora Avenue.

Respectfully submitted,



Lucina Baryluk  
Senior Planner  
Development Services Division



Andrea Hudson, Acting Director  
Sustainable Planning and Community  
Development Department

Report accepted and recommended by the City Manager:



Date: July 15, 2019

### List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans dated/date stamped May 15, 2019
- Attachment D: Letter from applicant to Mayor and Council dated May 17, 2019
- Attachment E: Community Association Land Use Committee Comments dated May 15, 2019.