



Committee of the Whole Report For the Meeting of October 24, 2019

To: Committee of the Whole **Date:** October 10, 2019

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

Subject: Development Permit with Variance Application No. 00056 for 844 Johnson Street

RECOMMENDATION

That Council decline Development Permit with Variance Application No. 00056 for the property located at 844 Johnson Street.

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 *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.

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 844 Johnson Street. The proposal is to vary the *Fence Bylaw* to permit an existing 2.40m fence located within the front (Pandora Avenue) yard of the subject property and to approve the overall design of the fence.

The following points were considered in assessing this application:

- the fence is inconsistent with the *Guidelines for Fences, Gates and Shutters*
- the fence is inconsistent with the Building and Street Interface Guidelines found within the *Downtown Core Area Plan*
- the proposed increase in height of the fence from 1.22m to 2.40m within the front yard is not appropriate as it detracts from the public realm and creates a fortress-like appearance to the property.

BACKGROUND

Description of Proposal

The proposal is to permit the design of the existing fence on Pandora Avenue and to vary the *Fence Bylaw* to increase the allowable height of the fence from 1.22m to 2.40m within the front

yard. When a property is bounded by two streets, the *Zoning Regulation Bylaw* defines the frontage of the property to be the wider of the two streets. In this instance, while the front entrance of the building faces Johnson Street, Pandora Avenue is the wider street and is therefore considered the front of the property.

Sustainability Features

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

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 a five-storey multi-unit residential building.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, on October 6, 2017 and September 10, 2019 the application was referred for a 30-day comment period to the Downtown Residents Association CALUC. At the time of writing this report, a letter from the CALUC had not been received.

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.

ANALYSIS

Development Permit Area and Design Guidelines

The *Official Community Plan (OCP, 2012)* identifies this property within Development Permit Area 2 (HC), Core Business. Design Guidelines that apply to DPA 2(HC) are the *Advisory Design Guidelines for Buildings, Signs and Awnings* (2006), and *Guidelines for Fences, Gates and Shutters* (2010).

The existing fence on the Pandora Avenue frontage does not meet the design guidelines found within the *Guidelines for Fences, Gates and Shutters*. The guidelines note that fences and gates must not contribute to a "fortress" appearance from the street. The fortress-like appearance is a result of the excessive height and the spear-like tips at the top of the fence. Approval of this fence could also set a design standard in which other buildings along Pandora Avenue install similar fences, which would contribute to the public's perception of whether the street or area is safe or not.

On September 14, 2016, VicPD completed a Safety and Security Audit for the subject property (Attachment E) using Crime Prevention through Environmental Design (CPTED) principles. A number of areas were identified in order to improve overall safety and security, including installing a high wrought iron fence along Pandora Avenue that could not be easily climbed. The fence has already been installed but still requires a variance as it exceeds the maximum height of 1.22m in the front yard, as discussed in a later section of this report.

Local Area Plans

The *Downtown Core Area Plan* identifies the subject property within the Central Business District, which primarily speaks to new developments. However, Appendix 5 - Building and Street Interface Guidelines identifies the Pandora Avenue frontage within the Avenue category. The Guidelines note that residential uses along Pandora Avenue should express the residential function through façade design elements such as individual entrances, residential landscaping and windows. The façade of the building at 844 Johnson Street, which faces Pandora Avenue, does not have individual entrances and utilizes reflective glazing. The landscaping more resembles a commercial use through the use of river rock and installed utilities. The addition of the tall fence further detracts from the aim of creating a positive street relationship.

Tree Preservation Bylaw and Urban Forest Master Plan

There are no Tree Preservation Bylaw impacts with this application.

Regulatory Considerations

The subject property fronts onto both Johnson Street and Pandora Avenue. The Zoning Regulation Bylaw identifies Pandora Avenue as the front of the property, even though the main entrance to the building is accessed from Johnson Street. Therefore, the proposal requires a variance to the *Fence Bylaw* to increase the height of the existing fence in the front of a residentially zoned property from 1.22m to 2.4m. As identified previously, the height and design of the fence detracts from the public realm and is therefore not supported by staff.

CONCLUSIONS

The 2.4m fence along Pandora Avenue negatively impacts the public realm and is inconsistent with the relevant design guidelines. Staff therefore recommend that Council consider declining the application. An alternate motion is provided below should Council wish to consider the application at an opportunity for public comment.

ALTERNATE MOTION

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

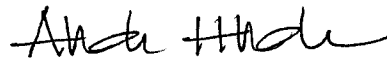
“That Council authorize the issuance of Development Permit with Variance Application No. 00056 for 844 Johnson Street, in accordance with:

1. Plans date stamped August 26, 2019.
2. Development meeting all *Fence Bylaw* requirements, except for the following variances:
 - i. Increase the permitted height of a fence located within the front boundary (Pandora Avenue) from 1.22m to 2.40m.
3. The Development Permit lapsing two years from the date of this resolution.”

Respectfully submitted,

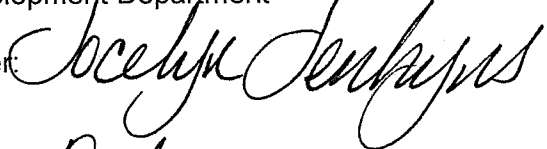


Michael Angrove
Planner
Development Services

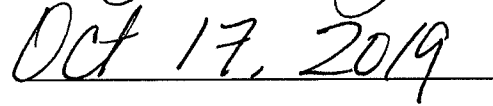


Andrea Hudson, Acting Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date:



List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans dated/date stamped August 26, 2019
- Attachment D: Letter from applicant to Mayor and Council.
- Attachment E: Victoria Police Safety and Security Audit.