



Committee of the Whole Report For the Meeting of December 12, 2019

To: Committee of the Whole

Date: November 28, 2019

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

Subject: Rezoning Application No. 00709 and Development Variance Permit No. 00236
for 2740 & 2742 Fifth Street

RECOMMENDATION

That Council decline Rezoning Application No. 00709 for the property located at 2740 & 2742 Fifth 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 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.

In accordance with Section 498 of the *Local Government Act*, Council may issue a Development Variance Permit that varies a *Zoning Regulation Bylaw* provided the permit does not vary the use or density of land from that specified in the *Zoning Regulation 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 2740 & 2742 Fifth Street. The proposal is to rezone from the R-2 Zone, Two Family Dwelling District to the R2-38 Zone, Fifth Duplex District, in order to construct a new single family dwelling in the rear yard of the existing duplex.

The following points were considered in assessing this application:

- the proposal is consistent with the Traditional Residential designation in the *Official Community Plan* (OCP 2012), as it is a form of ground-oriented housing, however, the

Traditional Residential designation envisions front and rear yards and in this proposal the current back yard would be occupied by a new building.

- the proposal is consistent with the *Hillside-Quadra Neighbourhood Plan* as it maintains the predominantly low-density character of the immediate area. However, the addition of a two-storey single family dwelling to the rear of a duplex is not a common building form in the area, except for the property immediately to the south
- the proposal is inconsistent with the R-2 Zone, Two Family Dwelling District and the *Neighbourliness Guidelines for Duplexes*, which do not permit additional suites
- the proposal is inconsistent with the Garden Suite Policy, which does not permit garden suites in the rear yard of duplexes and limits the height to 4.2m.

BACKGROUND

Description of Proposal

This rezoning application is to construct a new single family dwelling in the rear yard of the existing duplex. The property would be rezoned to the R2-38 Zone, which is the same zone as the property immediately to the south. The R2-38 Zone allows for a single family dwelling to be constructed in the rear yard of a duplex.

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 being proposed which would ensure the new dwelling be used as a rental unit for a minimum of five years and that future Strata Bylaws could not prohibit the rental of units.

Tenant Assistance Policy

The proposal is to construct a new building on what is currently a vacant portion of the property. Therefore, no tenants will be displaced through this application.

Sustainability Features

As indicated in the applicant's Green Building Report, attached and dated July 20, 2019, the following sustainability features are associated with this proposal:

- utilization of both EnerGuide Rating System and Built Green performance standards as well as Passive Building Design principles
- Passive Building Design principles including orientation to maximize seasonal solar gains, solar shading to prevent overheating, and Heat Recovery Ventilation
- roof design such that photovoltaic arrays can be installed in the future
- drain water heat recovery
- permeable hardscaping.

Active Transportation Impacts

The application proposes a large storage room connected to the entry foyer which can be used to safely secure bicycles.

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 residential uses, including single family dwellings, duplexes, and multi-unit residential. Quadra Village is located south of the subject property.

Existing Site Development and Development Potential

The site is presently developed with a duplex. Under the current R-2 Zone, the property could be developed as a duplex or a single family dwelling with a garden suite or secondary suite.

Data Table

The following data table compares the proposal with the proposed R2-38 Zone, Fifth Duplex District. An asterisk is used to identify where the proposal is less stringent than the R2-38 Zone.

Zoning Criteria	Proposal	R2-38 Zone
Site area (m ²) – minimum	752.5	752.5
Lot area required for each self-contained dwelling unit (m ²) – minimum	250.83	250
Density (Floor Space Ratio) – maximum	0.56	0.66
Total floor area (m ²) – maximum	418.77	493.60
Lot width (m) – minimum	18.29	N/A
Height (m) – maximum	7.01 ** - Duplex 6.75 – Single Family Dwelling	6.80
Storeys – maximum	2	2
Site coverage (%) – maximum	30.06	30.50
Setbacks (m) – minimum		
Front (Fifth Street)	7.35	6.5
Rear (west)	1.20 *	3.0
Side (north)	3.53	3.0

Zoning Criteria	Proposal	R2-38 Zone
Side (south)	3.14	1.8
Combined side yards	6.67	4.5
Parking – minimum	3	3

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant has consulted the Hillside-Quadra CALUC at a Community Meeting held on April 4, 2019. A letter dated May 18, 2019 is attached to this report.

ANALYSIS

Official Community Plan

The *Official Community Plan* (OCP, 2012) designates the property within the Traditional Residential Urban Place Designation, which envisions ground-oriented residential uses with densities up to 1:1 Floor Space Ratio (FSR). The place character features of the Traditional Residential designation envisions front and rear yards. The proposal would remove nearly the entire rear yard of the current duplex.

The subject property is already zoned for a duplex and is located in Development Permit Area (DPA) 16: General Form and Character. Within this DPA a Development Permit is not required for single family dwellings and duplexes. Should this application be forwarded to a Public Hearing, staff recommend the design of the single family dwelling and its proposed energy efficiency be secured through a design covenant.

Local Area Plans

The *Hillside-Quadra Neighbourhood Plan* identifies the property within the Duplex to Low Density Townhouse designation. The Plan notes that the neighbourhood should be kept as low-density housing within this designation. New housing should also fit comfortably into the neighbourhood. The proposal is similar in land use to the property immediately to the south but utilizes a more modern form of architecture.

Tree Preservation Bylaw and Urban Forest Master Plan

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

Other Policy

The proposal is most similar to a garden suite and has been assessed against the *Garden Suite Policy and Guidelines*. Currently, garden suites are only permitted on lots with single family dwellings and must be maintained as rental units. In addition, a garden suite on a plus sized lot, such as the subject property, would be limited to 4.2m in height, whereas the proposal is for 6.75m in height. The proposal therefore does not meet this policy.

When R-2 Zoning is already in place, as it is for this application, the *Neighbourliness Guidelines for Duplexes* is advisory only. The proposal is inconsistent with the advisory guideline that additional suites not be permitted in duplexes.

In general, the intent of the City's various infill policies and guidelines is to achieve a balance in creating new housing units while maintaining liveability. In Staff's opinion, the loss of back yard space to this extent does not achieve the overall policy objectives.

Regulatory Considerations

Under the R2-38 Zone a variance to the rear yard setback from 3.0m to 1.20m would be required for this proposal. This is inconsistent with the property to the south, which is also zoned R2-38 and has a 3.0m setback. However, the proposed setback is consistent with Schedule 'M' – Garden Suites, which requires a 0.6m setback from the rear lot line.

CONCLUSIONS

The proposal to rezone the subject property from the R-2 Zone, Two Family Dwelling District, to site specific zone to permit the existing two single-family dwellings is generally consistent with the Traditional Residential Urban Place Designation and the *Hillside Quadra Neighbourhood Plan*. However, the proposal is not consistent with the R-2 Zone, which prohibits additional units. Furthermore, the proposal most resembles a garden suite typology and is therefore inconsistent with the *Garden Suite Policy and Guidelines*. As such, staff recommend Council consider declining the application.

However, alternate motions have been provided should Council consider moving the application forward to a Public Hearing.

ALTERNATE MOTIONS

1. That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00709 for 2740 & 2742 Fifth 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:
 - a. Preparation and execution of legal agreements secure the design of the existing and proposed buildings including the energy efficiency certifications, to the satisfaction of City Staff.
 - b. Preparation and execution of a Housing Agreement to secure the proposed dwelling as rental for five years.

2. That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00709, if it is approved, consider the following motion:

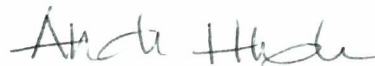
"That Council authorize the issuance of a Development Variance Permit Application for 2740 & 2742 Fifth Street, in accordance with:

- a. Plans date stamped October 10, 2019.
- b. Development meeting all Zoning Regulation Bylaw requirements, except for the following variance:
 - i. reduce the rear yard setback from 3.0m to 1.20m.
- c. The Development Permit lapsing two years from the date of this resolution."

Respectfully submitted,

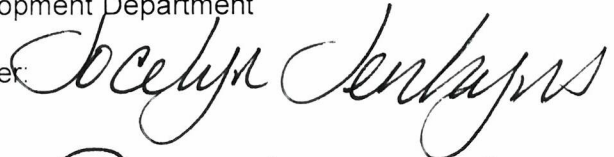


Michael Angrove
Senior Planner
Development Services



Andrea Hudson, Acting Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date: Dec 4, 2019

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped October 10, 2019
- Attachment D: Letter from applicant to Mayor and Council submitted October 10, 2019
- Attachment E: Community Association Land Use Committee Comments dated May 18, 2019
- Attachment F: Green Building Report dated July 20, 2019
- Attachment G: Correspondence (Letters received from residents).