



Committee of the Whole Report For the Meeting of June 25, 2020

To: Committee of the Whole **Date:** June 11, 2020
From: Karen Hoese, Director, Sustainable Planning and Community Development
Subject: Update for Rezoning Application No. 00643 for 1010 Fort Street

RECOMMENDATION

That Council decline Rezoning Application No. 00643 for the property located at 1010 Fort 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 updated information, analysis and recommendations for a revised Rezoning Application for the property located at 1010 Fort Street. The current proposal is to rezone from the CA-42 Zone, Harris Green Commercial District, to a new zone in order to construct a 13-storey, mixed-use building with ground-floor retail and residential above. A Development Permit with Variances Application is discussed in an accompanying report.

This application was previously presented to Committee of the Whole on October 4, 2018 (see attached staff reports). At that meeting, Council directed staff to work with the applicant to refine the proposal to better meet the goals of the OCP and DCAP, and bring the application back to

Committee of the Whole after design revisions had been made and after the application had been reviewed by the Advisory Design Panel. The application has been revised to reduce the density but increase the height and number of storeys.

The following points were considered in assessing this application:

- The current CA-42 Zone, Harris Green Commercial District, allows for a commercial or commercial/residential building up to 4 storeys (15.5m) in height with a floor space ratio (FSR) of 2.5:1. A rezoning application is required to increase the density.
- The *Official Community Plan* (OCP, 2012) encourages the logical assembly of development sites to enable the best realization of development potential for the area. Given the existing context and development potential, land assembly with the adjacent properties would accommodate off-street parking more easily with a taller building that is more consistent with the Design Guidelines.
- The subject property is designated Core Residential in the OCP, which supports diverse housing types including low-, mid- and high-rise, multi-unit residential and mixed-use buildings. The proposed use and height are consistent with this policy. The subject site, however, is not considered suitable for a taller building due to its size, context, and impact on future redevelopment proposals.
- The *Downtown Core Area Plan* (DCAP) identifies this property within the Residential Mixed-Use District, which supports multi-residential development up to a height of 45m. The base density for a mixed-use development is a floor space ratio of 3:1 and a maximum of 5.5:1. The proposed use, density, and height are generally consistent with this policy. The subject site, however, is not considered suitable for a taller building due to its size and context.
- Although this application is subject to the Density Bonus Policy (2016), the applicant is requesting consideration of the proposal under the Inclusionary Housing and Community Amenity Policy (IHCAP). Under the IHCAP, the proposal would be considered exempt from consideration of providing an amenity because it is a purpose-built rental project.
- The proposal is for approximately 55 rental dwelling units secured by Housing Agreement in perpetuity with a restriction to prevent the stratification of units (the previous proposal was for 10 years). Although Council has provided direction to include rental proposals in Schedule N, Residential Rental Tenure, of the Zoning Regulation Bylaw, the applicant has indicated that they are not willing to commit to this. Therefore, if Council chooses to move the application forward, the rental units would only be secured by a Housing Agreement and would not be entrenched in the zoning regulations.
- The applicant is proposing to make ten of these units affordable rental units to fulfil a commitment associated with a previous rezoning application that is secured under a legal agreement on a different property (1201 Fort Street).

BACKGROUND

Description of Proposal

The proposal is to construct a 13-storey, mixed-use building with ground-floor retail fronting Fort Street with residential units above. The building has a floor space ratio (FSR) of 5.37:1 and a height of 39.29m.

The following changes from the current zone are being proposed and would be accommodated in the new zone:

- increasing the maximum floor space ratio from 2.5:1 to 5.37:1
- increasing the maximum number of storeys from 4 to 13

- increasing the maximum height from 15.50m to 39.29m
- decreasing the minimum front setback from 3.00m to 0.00m.

Variances related to building street frontage and parking are also being requested, and are discussed in the concurrent Development Permit with Variances Application report.

Affordable Housing

The applicant proposes the creation of approximately 55 new residential units, which would increase the overall supply of housing in the area. A Housing Agreement is also being proposed to secure the dwelling units as rental in perpetuity.

Ten of these units would be affordable rental dwelling units, which are required to fulfil an obligation of a legal agreement associated with a previous rezoning application for a different property (see Relevant History section below). Since these were considered and committed to as a component of the previous application, they should not be considered as a community amenity contribution related to this application.

Sustainability

The applicant has identified a number of sustainability features which will be reviewed in association with the concurrent Development Permit Application for this property.

Active Transportation

The application proposes short-term bike storage (7 bikes) and long-term bike storage (90 bikes), which support active transportation. The number of long-term bike stalls exceeds the *Zoning Regulation Bylaw* requirements.

Public Realm

No public realm improvements beyond the City's standard requirements are proposed in association with this Rezoning Application.

Accessibility

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

Land Use Context

The area is characterized by low and mid-rise commercial and mixed-use buildings. Immediately adjacent land uses include:

- to the north – a nine-storey, multi-family residential building at 1029 View Street (Jukebox)
- to the east – a one-storey commercial building, currently occupied by a restaurant (J&J Wonton Noodle House)
- to the west – a three-storey office building at 1006 Fort Street
- to the south – a four-storey office building at 1007 Fort Street.

Existing Site Development and Development Potential

The site is presently a single-storey commercial building containing a show room for a different development. Under the current CA-42 Zone, Harris Green Commercial District, the property could be developed as a commercial or commercial/residential building up to 4 storeys (15.5m)

in height with a floor space ratio of 2.5:1. The Official Community Plan (OCP) and the Downtown Core Area Plan (DCAP) support increased heights and densities, but require a rezoning application.

Data Table

The following data table compares the proposal with the CA-42 Zone, Harris Green Commercial District and the policies within the DCAP. An asterisk is used to identify where the proposal does not meet the existing Zone.

Zoning Criteria	Proposal	Zone Standard CA-42 Zone	DCAP
Site area (m ²) – minimum	628.30	N/A	N/A
Lot width (m) – minimum	18.41	N/A	N/A
Density (Floor Space Ratio) – maximum	5.37:1 *	2.50:1	5.5:1
Total floor area (m ²) – maximum	3371.39	N/A	3455.65
Height (m) – maximum	39.29 *	15.50	45
Storeys – maximum	13 * (including mezzanine)	4	Approx. 15 (residential)
Building street frontage dedicated to access (%) – maximum	59.00 *	25.00	N/A
Building street frontage dedicated to retail uses (%) – minimum	41.00 *	75.00	N/A
Setbacks (m) – minimum			
Front Lot Line (south)	0.00 *	3.00	0 - 3
Rear (north)	0.00	N/A	See Building Separation Guidelines *
Side (east)	0.36	N/A	See Building Separation Guidelines *
Side (west)	0.00	N/A	See Building Separation Guidelines *
Parking (CA-42 Zone) – minimum	7	0	N/A

Zoning Criteria	Proposal	Zone Standard CA-42 Zone	DCAP
Parking (Schedule C) – minimum			N/A
Residential	3 *	30	
Visitor	2 *	6	
Commercial	2	2	
Bicycle parking stalls – minimum			N/A
Long term	90	62	
Short term	7	7	

Relevant History

On October 4, 2018 Council passed the following motion at the Committee of the Whole meeting (see attached staff reports):

“Direct staff to work with the applicant to refine the proposal to better meet the goals of the OCP and DCAP, and bring the Application back to Committee of the Whole after design revisions have been made and the Application has been reviewed by the Advisory Design Panel.”

The applicant has revised the proposal and it was reviewed by the Advisory Design Panel on October 23, 2019. The main changes to this rezoning proposal are:

- decrease density from 5.70:1 to 5.37:1
- increase number of storeys from 9 to 13 (including the mezzanine)
- increase height from 34.85m to 39.29m.

Design changes to the proposal are discussed in the concurrent Development Permit with Variances report.

As part of Rezoning Application No. 00525 for 1201 Fort Street (approved and under construction), the applicant registered a Housing Agreement on the title of 1201 Fort Street to ensure that ten percent of the approved unit count, being no less than ten units, be provided as affordable rental units on that site or on another site within the City of Victoria. If the affordable units are not provided (occupancy permit granted) by December 31, 2020, the applicant must provide \$25,000 per unit as a cash-in-lieu contribution to the City’s Housing Reserve Fund. The Rezoning Application that is the subject of this report proposes to fulfil this commitment by supplying ten affordable rental units; however, it should be noted that even if this application were approved, the units would not be built by the deadline stipulated in the agreements for 1201 Fort Street, and so an extension would be required. The applicant intends to submit this request to Council at a later date. The remainder of the residential units (45 dwelling units) are proposed to be market rental units secured by a Housing Agreement in perpetuity.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, the applicant has consulted the Downtown Harris Green CALUC at a Community Meeting held on April 9, 2018. Due to changes that the applicant made to the proposal, a second Community Meeting was required, which was held on July 16, 2019. Letters dated April 26, 2018 and September 30, 2019 are attached to this report.

ANALYSIS

Official Community Plan

The subject property is designated Core Residential in the *Official Community Plan* (OCP, 2012), which supports diverse housing types, including low-, mid- and high-rise, multi-unit residential and mixed-use buildings. The OCP does not include guidance for floor space ratios at this location. As with the previous proposal, this revised proposal is consistent with the use and height envisioned in this Urban Place Designation; however, the subject site is not suitable for a taller building due to its size, context, and impact on future redevelopment proposals. The minimal setbacks for a tower on a lot of this size could limit redevelopment opportunities for adjacent sites, and create privacy and livability issues for residential units. It would likely be challenging to design a building at the proposed height and density on this site that would meet the OCP's objectives and policies related to placemaking, urban design and heritage. The OCP encourages new development that achieves excellence, creates memorable places, and contributes to the sense of place through sensitive and innovative responses to existing form and character.

The OCP also encourages the logical assembly of development sites to enable the best realization of development potential for the area. Given the existing context and development potential, land assembly with the adjacent properties is strongly encouraged for a building of this size. This approach would achieve a development that is more consistent with the policies in the OCP and Development Permit Area Design Guidelines. Redevelopment on a larger site could accommodate greater setbacks to create more breathing room for a taller and enable off-street parking to be more easily provided without compromising the active street frontage and how people experience the building from the public realm. This revised proposal has not added adjacent lots to the proposal and although the overall density of the development has decreased, the building height has increased by four storeys.

Downtown Core Area Plan

The subject property is within the Residential Mixed-Use District in the *Downtown Core Area Plan* (DCAP), which supports multi-residential development up to a height of 45m. The base density for a mixed-use development is a floor space ratio of 3:1 and a maximum of 5.5:1. While the proposal is generally consistent with the DCAP policies related to use, density and height, the subject site is not suitable for a taller building due to its size and context.

The design of the proposal, however, still does not meet the guidelines in the DCAP, as discussed in the concurrent report associated with the Development Permit with Variance Application.

Density Bonus Policy

This application is subject to the Density Bonus Policy (2016). Under the 2016 policy, rezoning applications for sites designated as Core Residential, regardless of the proposed tenure, are

eligible for either a fixed rate amenity contribution or an amount determined through an economic analysis of the proposal. On June 27, 2019, Council adopted the Inclusionary Housing and Community Amenity Policy (IHCAP) and directed staff to apply the IHCAP to applications received after June 13, 2019. Under the IHCAP, purpose-built rental projects secured by a legal agreement for the greater of 60 years or the life of the building are exempt from providing a community amenity contribution.

The applicant is requesting consideration of the proposal under the IHCAP and the exemptions that apply to purpose built rental buildings. Staff recommend that Council consider supporting this request because previous analysis has determined that purpose-built rental projects do not typically generate a sufficient lift in land value to support a community amenity contribution beyond the provision of rental housing.

Tree Preservation Bylaw and Urban Forest Master Plan

Two existing trees on Fort Street – a 20 cm diameter at breast height (DBH) Galaxy magnolia and 47 cm DBH Hedge maple – are proposed to be retained in the public realm. Staff have concerns that the proposed underground utilities may affect the feasibility of retaining the existing street trees and may limit the potential to replant trees along the frontage. A site servicing plan has not been provided for staff to fully assess the potential impacts to the street trees. Should Council advance the proposal, it is recommended that prior to Public Hearing the applicant explore options to locate the underground servicing to retain the existing trees and suggest suitable planting locations for replacement trees if required. Appropriate wording in the alternate motion is included for Council's consideration.

Regulatory Considerations

Density, Storeys, Height, and Front Setback

If Council chooses to approve the application, the new zone would be based on the existing zone, but with increased density, height, number of storeys, and decreased front setback requirements as follows, which are generally consistent with the OCP and DCAP:

- increase the maximum floor space ratio from 2.5:1 to 5.37:1
- increase the maximum number of storeys from 4 to 13 (including the mezzanine)
- increase the maximum height from 15.50m to 39.29m
- decrease the minimum front setback from 3.00m to 0.00m.

Although the density has decreased from 5.7:1 to 5.37:1 FSR, the number of storeys and height have increased from 9 to 13 and 34.85m to 39.29m, since the previous proposal. The number of storeys, height and front setback would be included in the zone because the proposed density would likely be difficult to achieve without these increased permissions. Variances related to building street frontage and parking are also being requested and are discussed in the concurrent Development Permit with Variances Application report.

Residential Rental Tenure

On December 13, 2018 Council directed staff to include the rental tenure requirement as a regulation in new zones for purpose built rental buildings. The applicant, however, has indicated that they are not willing to commit to this. Therefore, if Council chooses to move the application forward, the rental units would only be secured by a Housing Agreement.

Housing Agreement Bylaw

The applicant is proposing approximately 55 rental dwelling units secured by legal agreement in perpetuity. Ten of these units would be affordable rental dwelling units to fulfil the requirements of a previous legal agreement registered on the title of 1201 Fort Street as part of Rezoning Application No. 00525 (see Relevant History section above).

CONCLUSIONS

The revised proposal to construct a 13-storey, mixed-use building with approximately 55 dwelling units and one commercial retail unit is consistent with the OCP and DCAP with respect to the proposed land use and density; however, the subject property is not suitable for additional density in a taller building. Land assembly with adjacent properties would enable the best realization of development potential for this site. Staff recommend for Council's consideration that this Rezoning Application be declined.

ALTERNATE MOTION

That Council direct staff to prepare the necessary Zoning Regulation Bylaw Amendments that would authorize the proposed development outlined in Rezoning Application No. 00643 for 1010 Fort Street, that first and second reading of the Zoning Regulation Bylaw Amendments be considered by Council, and a Public Hearing date be set once the following conditions are met:

1. Provision of additional information regarding underground servicing to ensure the feasibility of street trees to the satisfaction of the Director of Parks, Recreation and Culture.
2. Preparation and execution of the following legal agreements in a form satisfactory to the City Solicitor:
 - a. A Housing Agreement Bylaw to secure rental tenure of the dwelling units in perpetuity, and to secure ten of the dwelling units as affordable rental housing in perpetuity to satisfy the previous Housing Agreement requirements associated with 1201 Fort Street to the satisfaction of the Director of Sustainable Planning and Community Development; and
 - b. A Section 219 covenant to ensure that the dwelling units are not strata titled, to the satisfaction of the Director of Sustainable Planning and Community Development.

Respectfully submitted,



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Karen Hoese, Director
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Report accepted and recommended by the City Manager:



Date: June 18, 2020

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped March 23, 2020
- Attachment D: Letter from applicant to Mayor and Council dated June 4, 2020
- Attachment E: Community Association Land Use Committee Comments dated September 30, 2019 and April 26, 2018
- Attachment F: Advisory Design Panel report, dated October 11, 2019
- Attachment G: Advisory Design Panel Minutes from the meeting of October 23, 2019
- Attachment H: Staff Reports for Committee of the Whole on October 4, 2018
- Attachment I: Committee of the Whole meeting minutes, dated October 11, 2018
- Attachment J: Correspondence received since October 11, 2018.