Committee of the Whole Report
For the Meeting of July 23, 2020

To:	Committee of the Whole	**Date:**	July 9, 2020
From:	Karen Hoese, Director, Sustainable Planning and Community Development		
Subject:	**Rezoning Application No. 00694 for 1908, 1916, and 1920 Oak Bay Avenue**		

RECOMMENDATION

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendments that would authorize the proposed development outlined in Rezoning Application No. 00694 for 1908, 1916, and 1920 Oak Bay Avenue, 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. Consult with the community through the South Jubilee CALUC in accordance with the Land Use Procedures Bylaw requirements (which has updated procedures during the COVID-19 pandemic) to seek feedback on the potential of adding a storey for rooftop access for common outdoor amenity space.
2. Revisions to plans to add a rooftop amenity space, if deemed feasible, to the satisfaction of the Director of Sustainable Planning and Community Development.
3. Preparation and execution of legal agreements to:
   a) ensure that a future strata cannot restrict the rental of units to non-owners, to the satisfaction of the Director of Sustainable Planning and Community Development;
   b) secure the following transportation demand management measures, to the satisfaction of the Director of Engineering and Public Works:
      i) $25,000 towards the construction of a crosswalk
      ii) one car share membership per dwelling unit
      iii) one car share membership per commercial unit
      iv) one hundred dollars in car share usage credits per membership
      v) electric vehicle readiness for all underground parking stalls
      vi) four electric vehicle charging stations
      vii) 24 electric bike charging stations
      viii) one bicycle repair station;
   c) secure a Statutory Right-of-Way of 3.35 meters along the Oak Bay Avenue to the satisfaction of the Director of Engineering and Public Works; and
   d) to secure the following, to the satisfaction of the Director of Engineering and Public Works:
      i) public realm improvements to Oak Bay Avenue and Redfern Street; and
      ii) removal and disposal of existing storm drain main along the frontage in its current

alignment, including excavation, backfill above the spring line of the new pipe, and surface restoration.

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.

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 1908, 1916, and 1920 Oak Bay Avenue. The proposal is to rezone from the CR-3 Zone, Commercial Residential Apartment District, to a new site-specific zone in order to increase the density to 1.94:1 floor space ratio (FSR).

The following points were considered in assessing this application:

- the proposal is generally consistent with the *Official Community Plan* (OCP, 2012) Small Urban Village Urban Place Designation (Oak Bay Avenue Village) in terms of use, density, built form and place character
- the proposal would create new homeownership options and advance the OCP's objectives with regards to providing a diversity of housing types in each neighbourhood
- the proposal is generally consistent with the *Jubilee Neighbourhood Plan* (1996)
- the applicant is proposing to make a Community Amenity Contribution of $100,000. Consistent with the *Inclusionary Housing and Community Amenity Policy,* this contribution would be allocated to the Victoria Housing Reserve Fund for affordable housing (70%) and to the Local Amenities Fund for community amenities (30%)
- the applicant is proposing public realm improvements including Urban Village furnishings and pedestrian lights
- the applicant is proposing to provide $25,000 towards construction of a crosswalk and replacement of the City's storm drain main along Oak Bay Avenue.

BACKGROUND

Description of Proposal

This Rezoning Application is to allow construction of a four-storey, mixed-use building with ground-floor commercial and multiple dwelling strata residential above, including approximately 35 dwelling units. The overall proposed density is 1.94:1 floor space ratio.

The following differences from the current CR-3 Zone, Commercial Residential Apartment District are being proposed, which align with the OCP, and would be accommodated in the new zone:

- increase the density from 1.0:1 to 1.94 FSR
- increase the height from 10.7m to 14.98m

- increase the number of storeys from three to four.

Variances related to setbacks and parking are also proposed as part of the concurrent Development Permit Application and are discussed in a separate report.

Affordable Housing

The applicant proposes the creation of approximately 35 new strata residential units which would increase the overall supply of housing in the area. A Housing Agreement is also being proposed which would ensure that future Strata Bylaws could not prohibit the rental of units.

The *Inclusionary Housing and Community Amenity Policy* (2019) indicates \$53.82 / m^2 of bonus floor space which would result in a total contribution of \$99,308.82. Therefore, the applicant is proposing to make a Community Amenity Contribution of \$100,000. Consistent with the policy, this contribution would be allocated to the Victoria Housing Reserve Fund for affordable housing (70%) and to the Local Amenities Fund for community amenities (30%).

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

Public Realm

The following improvements are proposed in association with this Rezoning Application:

- Urban Village furnishings, materials and pedestrian lights along the Oak Bay Avenue frontage
- removal and disposal of existing storm drain main along the frontage in its current alignment, including excavation, backfill above the spring line of the new pipe, and surface restoration.

These improvements would be secured with a Section 219 covenant, registered on the property's title, prior to Council giving final consideration of the proposed Zoning Regulation Bylaw Amendment.

Land Use Context

The area is characterized by a mix of low rise commercial, residential, and mixed-use buildings along Oak Bay Avenue. The immediately adjacent land uses to the north are predominantly single-family dwellings. The adjacent property to the west is a church.

Existing Site Development and Development Potential

The site is presently occupied with retail commercial uses. Under the current CR-3 Zone, Commercial Residential Apartment District, the property could be developed as a one storey commercial building, or a three-storey residential or mixed-use building (commercial on the ground floor and residential above). The uses permitted in the R-2 Zone, Two Family Dwelling

District, and the R1-B Zone, Single Family Dwelling District, are also permitted in the CR-3 Zone but approval of a Development Permit may be required.
The OCP identifies this site as Small Urban Village, allowing for the site to be developed with a mixed-use building, up to approximately four storeys.

Data Table

The following data table compares the proposal with the existing CR-3 Zone and the OCP. An asterisk is used to identify where the proposal does not meet the requirements of the existing Zone. The proposal would require a new site-specific zone to accommodate the increased density. The differences related to setbacks and parking would be accommodated by variances so that they are not entrenched in the zone and would therefore need to be considered again if a different proposal came forward in the future (see the concurrent Development Permit with Variances Application report).

Zoning Criteria	Proposal	Existing Zone (CR-3)	OCP Small Urban Village
Site area (m^2) – minimum	1963.00	N/A	-
Dwelling Unit Area (m^2) – minimum	47.00	33.00	-
Density (Floor Space Ratio) – maximum	**1.94 ***	1.0:1	2.0:1
Total floor area (m^2) – maximum	3809.13	N/A	-
Height (m) – maximum	**14.98 ***	10.70	-
Storeys – maximum	**4 ***	3	4 (approx.)
Setbacks (m) – minimum			
Front (Oak Bay Ave) – First Storey (canopies excluded)	3.35	3.00	-
Front (Oak Bay Ave) – Upper Storeys	**2.34 ***	6.00	
Rear (north)	**5.32 ***	6.00	
Interior Side (west)	**0.15 ***	2.4 or greater or nil	
Flanking Street (Redfern Street, east) (balconies excluded)	**0.72 ***	2.40	
Vehicle parking – minimum			-
Total	**57 ***	74	
Residential	**43 ***	44	

Zoning Criteria	Proposal	Existing Zone (CR-3)	OCP Small Urban Village
Visitor	4	4	-
Commercial	**10 ***	26	
Bicycle parking stalls – minimum			
Long Term	48	46 (including 3 commercial)	-
Short Term	11	11	
Distance from Entrance (m) - minimum	48.1m (to farthest bike parking)	15.00	

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant has consulted the South Jubilee CALUC at a Community Meeting held on March 13, 2019. A letter dated March 22, 2019 is attached to this report.

ANALYSIS

Official Community Plan

The subject site is designated Small Urban Village (Oak Bay Avenue Village) in the *Official Community Plan* (OCP, 2012), which envisions a mix of commercial and community services primarily serving the surrounding residential area, in low-rise, ground-oriented multi-unit residential and mixed-use buildings generally up to four storeys in height along arterial and secondary arterial roads, with total floor space ratios up to approximately 2:1. In terms of place character features, the OCP envisions ground-oriented commercial and community services that reinforce the sidewalk and one to three storey building facades define the street wall. The proposal is generally consistent with these policies.

Building Height

Staff have encouraged the applicant to explore providing common rooftop amenity space if it could be incorporated without adverse impacts on adjacent properties. This would, however, require an additional Community Meeting (as per the *CALUC Procedures for Processing Development Applications*) because the stair and elevator access would increase the height of the building. Given the potential impacts to the project timeline to complete this step, and uncertainties related to the COVID-19 pandemic, the applicant decided to exclude this amenity space at this time, but has indicated that they would be willing to revise the plans for this in the future.

The addition of the rooftop access would be supported by staff because it would be generally consistent with the height envisioned in the OCP. The amenity space would increase liveability for the residents, and it would be designed to be located in the centre of the roof to limit

overlook on adjacent properties and reduce its visibility from the street. The recommendation in this report would direct staff to work with the applicant to revise the plans to add a rooftop amenity space and consult with the South Jubilee CALUC before proceeding to a Public Hearing and consideration by Council. Alternate motions have also been provided to move the application forward without the rooftop amenity space or to move the application forward with the rooftop amenity space but without the CALUC consultation.

Land Assembly

The OCP 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 to the west was encouraged. This approach may have achieved a development more consistent with the policies in the OCP and Development Permit Area Design Guidelines and may have also enabled off-street parking to be more easily provided. However, it is noted in this case that the property to the west could be developed independently, with a smaller scale building, at a future date given its location on a corner.

Jubilee Neighbourhood Plan

The *Jubilee Neighbourhood Plan* (1996) contains policies regarding development of the neighbourhood. Overall, the proposal is generally consistent with the goals related to housing and commercial development. It would encourage a mix of housing types and tenures for people with different needs including a variety of incomes and family structures, maintain the physical integrity, scale and character of the neighbourhood, and reinforce the existing neighbourhood commercial area as a vibrant, pedestrian-oriented place for local shopping, services and social interaction.

Statutory Right of Way

It is recommended that a Statutory Right-of-Way (SRW) of 3.35m along Oak Bay Avenue be a condition of rezoning in order to help fulfill *Official Community Plan* objectives such as enhanced facilities for walking, cycling, public transit and boulevards which support the long term viability of street trees. Oak Bay Avenue is also an identified route in the City's All Ages and Abilities (AAA) bicycle network and part of BC Transit's Frequent Transit Network.

CONCLUSIONS

The proposal to rezone the site to construct a four-storey mixed-use building is consistent with the use and density envisioned for this location in the OCP and would add to housing diversity in the South Jubilee neighbourhood. Therefore, staff recommend that Council consider advancing the application to a Public Hearing.

ALTERNATE MOTIONS

Option 1: Move the Application Forward with no Rooftop Amenity Space

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendments that would authorize the proposed development outlined in Rezoning Application No.00694 for 1908, 1916, and 1920 Oak Bay Avenue, 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. Preparation and execution of legal agreements to:

a) ensure that a future strata cannot restrict the rental of units to non-owners, to the satisfaction of the Director of Sustainable Planning and Community Development;
b) secure the following transportation demand management measures, to the satisfaction of the Director of Engineering and Public Works:
    i) $25,000 towards the construction of a crosswalk
    ii) one car share membership per dwelling unit
    iii) one car share membership per commercial unit
    iv) one hundred dollars in car share usage credits per membership
    v) electric vehicle readiness for all underground parking stalls
    vi) four electric vehicle charging stations
    vii) 24 electric bike charging stations
    viii) one bicycle repair station;
c) secure a Statutory Right-of-Way of 3.35 meters along the Oak Bay Avenue to the satisfaction of the Director of Engineering and Public Works;
d) to secure the following, to the satisfaction of the Director of Engineering and Public Works:
    i) public realm improvements to Oak Bay Avenue and Redfern Street
    ii) removal and disposal of existing storm drain main along the frontage in its current alignment, including excavation, backfill above the spring line of the new pipe, and surface restoration.

Option 2: Move the Application Forward with the Addition of Rooftop Amenity Space but without CALUC Consultation

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendments that would authorize the proposed development outlined in Rezoning Application No.00694 for 1908, 1916, and 1920 Oak Bay Avenue, 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:

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Option 3: Decline the Application

That Council decline Application No. 00694 for the property located at 1908, 1916, and 1920 Oak Bay Avenue.
Respectfully submitted,

Rob Bateman
Senior Process Planner
Development Services Division

Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:

Date: July 16, 2020

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped July 7, 2020
- Attachment D: Letter from applicant to Mayor and Council dated June 23, 2020
- Attachment E: Community Association Land Use Committee Comments dated March 22, 2019
- Attachment F: Transportation Study dated April 24, 2019
- Attachment G: Advisory Design Panel Meeting minutes from June 3, 2020
- Attachment H: Correspondence (Letters received from residents).