



Committee of the Whole Report

For the Meeting of October 1, 2020

To: Committee of the Whole **Date:** September 3, 2020

From: Karen Hoese, Director, Sustainable Planning and Community Development

Subject: **Rezoning Application No. 00714 for 3080, 3082 and 3090 Washington Avenue and associated Official Community Plan Amendment**

RECOMMENDATION

That Council refer the application back to staff and give the applicant an opportunity to refine the following items:

1. Lower the height of buildings C, E, F and H to ensure that there is a sensitive transition to the neighbouring lower density residential buildings on the north and south side of the subject site, to the satisfaction of the Director of Sustainable Planning and Community Development.
2. Explore potential design changes to the greenway to see if it is possible to both retain trees and make it wheelchair accessible, to the satisfaction of the Director of Engineering and Public Works.

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 information, analysis and recommendations in relation to a Rezoning Application for the property located at 3080, 3082 and 3090

Washington Avenue. The proposal is to rezone from the R1-B Zone, Single-Family Dwelling District, to a new zone in order to increase the density and construct nine attached dwelling buildings (townhouses) with several units in each and one duplex, totalling 34 dwelling units. Since the *Official Community Plan, 2012* (OCP) only supports up to two storeys, an amendment to the OCP to allow for three-storey attached dwellings is required to facilitate this development.

The following points were considered in assessing this application:

- The subject properties are designated Traditional Residential in the OCP, which supports ground-oriented residential buildings up to two-storeys and a density of up to approximately 1:1 floor space ratio (FSR).
- Amending the OCP Urban Place Designation from Traditional Residential to Urban Residential would allow for three-storey attached dwellings. However, staff have concerns related to building transition to neighbouring properties and, therefore, do not support three-storey buildings throughout the entire site.
- The land use designation in the *Burnside Gorge Neighbourhood Plan, 2017* (BGNP) is Traditional Residential, which also supports ground-oriented residential buildings up to two-storeys and a density of up to 0.8:1 FSR.
- The BGNP supports denser, ground-oriented housing, such as townhouses, with a significant proportion of units designed to be attractive to families with children on the large lots located on the west side of Washington Avenue.
- The OCP, City's *Greenways Plan* (2003), *2016 Bicycle Network*, and BGNP identify a multi-use pathway (referred to as the Doric Connector) on the subject site that would connect Maddock Street to Cecelia Road and the Galloping Goose Regional Trail. The Doric Connector is recognized as a priority for the neighbourhood and the applicant would be constructing the pathway as part of this development.
- Two existing single-family dwellings on the site have been identified on the Buildings of Heritage Merit Map in the BGNP. Heritage assessments (attached) were completed for each house and it was confirmed that these two houses do not have considerable heritage significance.
- The applicant has provided a Tenant Assistance Plan (attached).
- The site is subject to a Land Use Contract (LUC). The Province has advised that all LUCs will be terminated on June 30, 2024 and new bylaws, if required for the affected lands, must be adopted by June 30, 2022. This new legislation and applicable deadlines apply to all land within the jurisdiction of a local government. This proposal initiates this process for the subject properties, which are currently regulated by an existing LUC to allow 26 townhouse units.

BACKGROUND

Description of Proposal

This application is to rezone from the R1-B Zone, Single Family Dwelling District, to a new zone, in order to increase the density and construct nine attached dwelling buildings (townhouses) with several units in each and one duplex, totalling 34 dwelling units.

The differences from the existing R1-B Zone are related to increasing the height and density and reducing setbacks. These would be accommodated in the new zone.

The request to amend the *Official Community Plan, 2012* (OCP) is necessary in order to permit three-storey townhomes at this location.

Housing

The applicant proposes the creation of 34 new residential units which would increase the overall supply of housing in the area. The following mix of two, three, and four-bedroom units would be provided:

Unit Type	Number of dwelling units
Two-bedroom	11
Three-bedroom	21
Four-bedroom	2
Total	34

A Housing Agreement is being proposed to ensure that future Strata Bylaws could not prohibit the rental of units.

Tenant Assistance Policy

The proposal is to demolish three existing single-family dwellings which would result in a loss of three existing residential rental units. Consistent with the Tenant Assistance Policy, the applicant has provided a Tenant Assistance Plan which is attached to this report.

Sustainability

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

Active Transportation

The application proposes to install six short-term residential bicycle parking spaces with this development, which supports active transportation.

Public Realm

The construction of a multi-use pathway along the northern edge of the site connecting Maddock Street to Cecelia Road, also known as the Doric Connector, is being offered by the applicant in association with this Rezoning Application and would be secured with a Section 219 Covenant. Additional details on the Doric Connector are discussed below.

Accessibility

The British Columbia Building Code regulates accessibility as it pertains to buildings. The proposed north-south pathway and driveways are designed to be accessible. Portions of the pathway along the northern edge of the site would have grades which exceed the City's targets for wheelchair accessibility. The staff recommendation includes wording to give the applicant an opportunity to revise the pathway design to ensure that it is wheelchair accessible.

Land Use Context

The area is characterized by a mix of single-family dwellings, townhouses and multi-unit residential buildings.

Existing Site Development and Development Potential

The site is presently occupied by three single-family dwellings. Under the current R1-B Zone, each property could be developed as a single-family dwelling with a secondary suite or garden suite.

Data Table

The following data table compares the proposal with the existing R1-B Zone. An asterisk is used to identify where the proposal does not meet the requirements of the existing zone. These would be accommodated in the new zone.

Zoning Criteria	Proposal	Existing Zone (R1-B)	OCP
Site area (m ²) – minimum	6031.75	460	
Number of dwellings units in an attached dwelling	4	n/a	
Density (Floor Space Ratio) – maximum	0.78:1	n/a	1:1
Total floor area (m ²) – maximum	4718.19*	280	
Floor area per attached dwelling (m ²) – minimum	113.57	n/a	
Lot width (m) – minimum	70.69	15	
Height (m) – maximum	7.05 to 11.07*	7.60	
Storeys – maximum	2 and 3 (not consistent with OCP)	2	2
Site coverage (%) – maximum	38.90	40	
Open site space (%) – minimum	39.56	30	
Separation space between buildings (within the site) (m) – minimum	3* to 10.21	n/a	
Setbacks (m) – minimum			
Front	4*	7.50	
Rear	5.74*	21.02	
Side (north)	5.62*	7.07	
Side (south)	3.40*	3	

Zoning Criteria	Proposal	Existing Zone (R1-B)	OCP
Parking – minimum	41	34	
Visitor parking included in the overall units – minimum	4	3	
Bicycle parking stalls – minimum			
Long-term	n/a	n/a	
Short-term	6	6	

Relevant History

In April 1977, a Land Use Contract (LUC) was registered on title to permit a townhouse development consisting of 26 townhouse units with a similar site plan and built form as the existing townhouse complex directly south of the subject site. The Province has advised that all LUCs will be terminated on June 30, 2024 and new bylaws, if required for the affected lands, must be adopted by June 30, 2022. This new legislation and applicable deadlines apply to all land within the jurisdiction of a local government. This proposal initiates this process for the subject properties.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant has consulted the Burnside Gorge CALUC at a Community Meeting held on August 28, 2019. Letters dated September 3, 2019 and August 24, 2020 are attached to this report.

ANALYSIS

Official Community Plan

OCP Designation and Proposed Amendment

The subject site is designated Traditional Residential in the OCP, which supports two-storey, ground-oriented residential buildings, such as single-family dwellings, duplexes and attached housing (townhouses), and a density of up to approximately 1:1 FSR. The applicant is proposing two- and three-storey buildings, and a density of 0.78:1 FSR.

The applicant is proposing to amend the OCP Urban Place designation from Traditional Residential to Urban Residential, which supports attached dwellings up to three storeys. The *Local Government Act* (LGA) Section 475 requires a Council to provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected by an amendment to the OCP. Consistent with Section 475 of the LGA, Council must further consider whether consultation should be early and ongoing. This statutory obligation is in addition to the Public Hearing requirements.

In this instance, staff recommend for Council's consideration that notifying owners and occupiers of land located within 200 metres of the subject site along with posting a notice on the City's website will provide adequate opportunities for consultation with those affected.

Given that through the CALUC community meeting process all owners and occupiers within a 200m radius of the site were notified and invited to participate in a Community Meeting, the consultation proposed at this stage in the process is recommended as adequate and consultation with specific authorities, under Section 475 of the LGA, is not recommended as necessary.

Should Council support the OCP amendment, Council is required to consider consultation with the Capital Regional District Board; Councils of Oak Bay, Esquimalt and Saanich; the Songhees and Esquimalt First Nations; the School District Board and the provincial government and its agencies. However, further consultation is not recommended as necessary for this amendment to the Urban Place Designation as this matter can be considered under policies in the OCP.

Council is also required to consider OCP Amendments in relation to the City's *Financial Plan*, the *Capital Regional District Liquid Waste Management Plan* and the *Capital District Solid Waste Management Plan*. This proposal will have no impact on any of these plans.

Height Analysis

The immediate area is characterized by a mix of single-family dwellings and townhouses that are two and 2.5 storeys in height. While the majority of the buildings proposed are three storeys to minimize impacts on neighbouring properties to the west, the applicant is proposing to locate two-storey attached dwellings (Buildings I and J) at the west end of the site, which is the highest peak of the property (refer to Figure 1 below). A two-storey building (Building A) would also be located on the south-east corner of the site, which would provide a sensitive transition to the neighbouring character home.

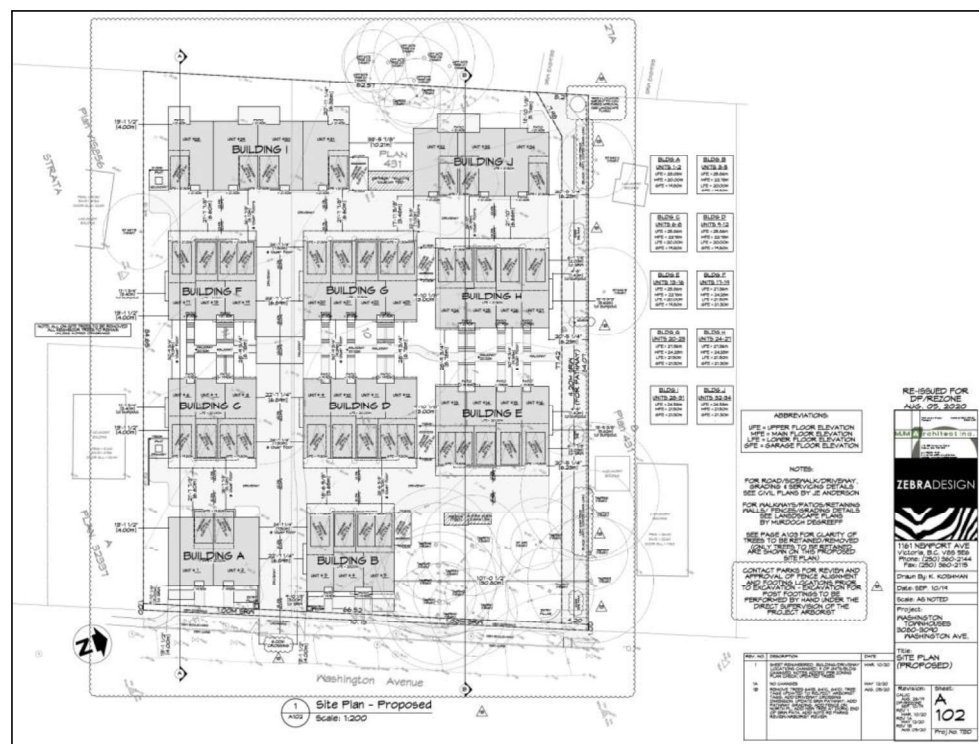


Figure 1. Proposed Site Plan

There is an approximately one- to two-metre grade change between the subject site and the property to the north, which is creating an abrupt transition between the proposed three-storey attached dwellings and the house to the north, which is significantly lower in height (refer to Figure 2 below). To soften the impacts on neighbours and provide breathing room between the adjacent single-family dwelling to the north, the applicant is proposing to locate an outdoor amenity space on the northeast corner of the site, adjacent to the connector, which results in a building separation distance of approximately 37m between the existing house and proposed attached dwelling (Building B). In addition, to reduce potential privacy concerns and opportunities for overlook, the applicant has proposed minimal windows on the north and south elevations of buildings facing the adjacent neighbours. There would be some shadow impacts from this development on the neighbouring properties regardless of whether the buildings were to be two or three storeys in height.



Figure 2. Proposed Streetscape

Notwithstanding these proposed design interventions by the applicant to address the building transition and potential privacy concerns, it is recommended that Buildings C, E, F and H should also be reduced to two-storeys to ensure that the proposal provides for a sensitive transition and fits in with the neighbourhood context. It was suggested to the applicant that they consider partial basements instead of a full third storey, especially given the approximate 5m grade change from the southwest corner to the northwest corner of the site; however, the applicant indicated to staff that this would not be a feasible option from a design and financial perspective.

Overall Built Form

The OCP encourages a high quality of architecture, landscape and urban design to enhance the visual identity and appearance of the city. The applicant is proposing a ground-oriented housing form with a variety of traditional architectural features that respect the existing neighbourhood character. Private and semi-private open space and outdoor amenities for residents and visitors are proposed in order to create a sense of place on site. The outdoor amenity space at the northeast corner of the site is designed around a grouping of mature trees and contains a raised wooden deck, outdoor seating and picnic tables.

Burnside Gorge Neighbourhood Plan

The land use designation of the subject properties in *Burnside Gorge Neighbourhood Plan*, 2017 (BGNP) is Traditional Residential, which also supports ground-oriented residential buildings up to two-storeys and a density of up to 0.8:1 FSR. The proposal is not consistent with the height policies outlined in the Plan. However, in accordance with the BGNP, the applicant is proposing to consolidate the deeper larger lots on the west side of Washington Avenue in order to provide a denser, ground-oriented housing form with a significant proportion of the units designed to be attractive to families with children.

The existing houses located at 3080 and 3082 Washington Avenue are identified on the Buildings of Heritage Merit map in the BGNP, and therefore, the applicant engaged a heritage consultant to complete heritage assessments (attached). The assessments conclude that these houses do not have considerable heritage significance.

Establishing a pedestrian and bicycle connection (i.e. Doric Connector) from Maddock Street to Cecelia Road and the Galloping Goose Regional Trail is strongly encouraged in the Plan. Completion of the Doric Connector is a priority for the neighbourhood, and also supports the land use vision of establishing a Large Urban Village in the Cecelia-Jutland area. The ideal alignment for this connector crosses the north side of the subject site, which the applicant is willing to construct as part of this proposed development.

Tree Preservation Bylaw and Urban Forest Master Plan

The goals of the *Urban Forest Master Plan* include protecting, enhancing, and expanding Victoria's urban forest and optimizing community benefits from the urban forest in all neighbourhoods. Preserving trees and especially groupings of trees is important in the Burnside Gorge Road Neighbourhood, where there is low tree canopy cover and limited native trees and soils to promote biodiversity. Based on feedback from the City on the initial submission, the applicant redesigned the building layout to preserve trees in the northeast corner of the property. In the current proposal, a total of 14 onsite trees are to be retained, including a group of ten native trees (a mix of Douglas-fir, Western redcedar, and Bigleaf maple) at Washington Avenue on the south side of the proposed greenway.

This application was received prior to October 24, 2019, so it falls under *Tree Preservation Bylaw No. 05-106* consolidated June 1, 2015. The tree inventory for the proposal, outlined in the attached arborist report, includes 136 trees in proximity to the development: seven bylaw-protected trees (six onsite and one offsite) and 129 unprotected trees (113 onsite and 16 offsite/shared). One bylaw-protected and 13 unprotected trees on the subject lots are proposed for retention. Proposed for removal from the subject lots are five bylaw-protected and 100 unprotected trees. Three unprotected trees that abut the north property line will require removal to construct the proposed multi-use pathway. Mitigation measures such as tree protection fencing, arborist supervision, and modified hardscape installation will be utilized to minimize negative impacts to trees to be retained.

The proposed landscape plan includes a total of 82 new trees to be planted on the site (46 of which are small-canopy at maturity). Of these new trees, ten would be replacement trees (large-canopy at maturity) for the removal of the bylaw-protected trees. Five new street trees are to be planted on Washington Avenue.

The following table provides a summary of tree related considerations:

Tree Status	TOTAL # of Trees	Trees to be RETAINED	Trees to be REMOVED	PROPOSED Trees	NET CHANGE (proposed minus removed)
Onsite Trees, Bylaw-Protected	6	1	5	10	+5
Onsite Trees, Unprotected	113	13	100	72	-28

Tree Status	TOTAL # of Trees	Trees to be RETAINED	Trees to be REMOVED	PROPOSED Trees	NET CHANGE (proposed minus removed)
City Trees	0	0	0	5	+5
Neighbouring Trees, Bylaw- Protected	1	1	0	0	0
Neighbouring Trees, Unprotected	16	13	3	0	-3
Total	136	28	108	87	-21

Other Policy

Doric Connector

The Doric Street Connector is a proposed multi-use pathway (refer to Figure 3 below) between Washington Street and Maddock Avenue East that will provide a connection for residents to access the recently-completed playground at Cecilia Ravine Park and the Galloping Goose Regional Trail. This Connector has been a long-standing priority for residents of Burnside Gorge since the early 1990s. The plan for it was formally confirmed by the City in the 2003 *Greenways Plan*, the 2012 *Official Community Plan*, 2016 *Bicycle Network*, and most recently in the 2017 *Burnside Gorge Neighbourhood Plan*.

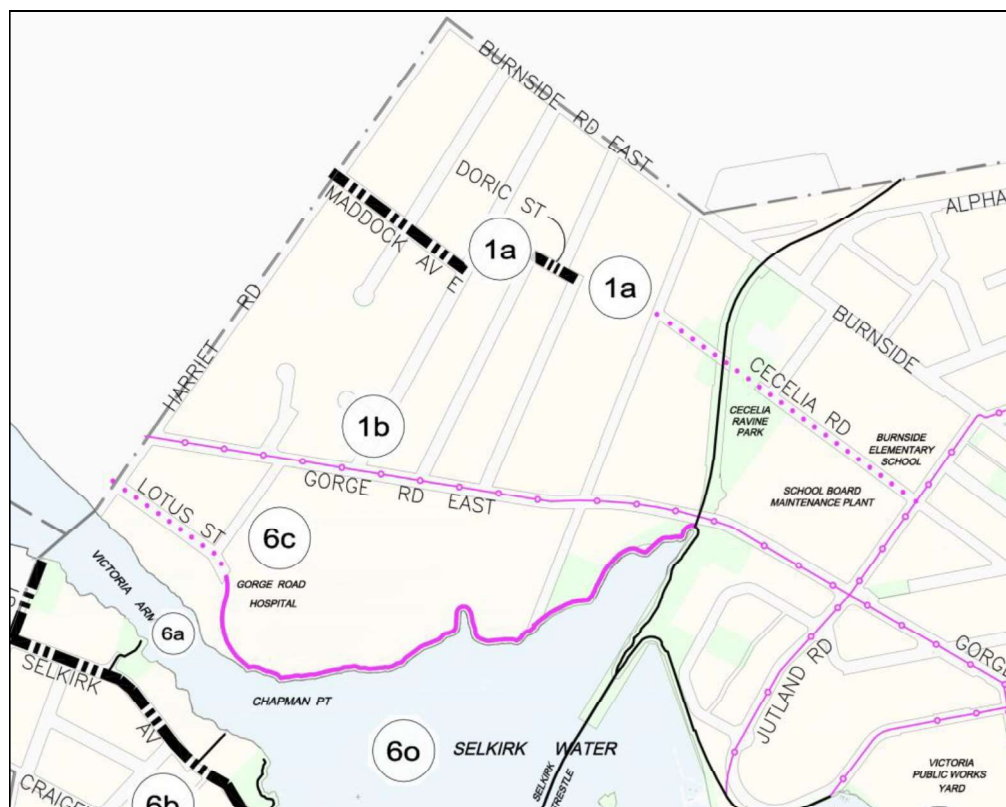


Figure 3. Bicycle Network

There is an opportunity with this Rezoning Application to obtain a 4.2m wide SRW on the subject property to construct the Doric Connector. The applicant is willing to construct part of this pathway as part of the proposed development and once completed, the city would maintain it. To complete the full length of the Doric Connector, the City would be responsible for constructing the portion of the pathway on 3095 Carroll Street. The multi-use pathway would include asphalt surface treatment, context-sensitive pedestrian lighting (bollards), and a black chain-link fence on the north side of the pathway. The applicant is currently proposing a solid wood fence with lighting affixed to the fence along the south side of the pathway, which is not consistent with the design criteria provided by staff. A lower picket-style fence may be suitable to demarcate the public and private realm while avoiding potential graffiti and ensuring there is adequate surveillance and ambient lighting for people using the pathway.



As a part of supporting an accessible built environment, the City aims for topographical grades of five-percent or less. In some cases, an eight-percent grade is acceptable provided that there are rest areas along the way. Due to the natural topography in the area and the need to weave the path between several existing trees, the resulting pathway achieves grades between 1.7% and 10.6%. In the section closest to Washington Avenue, the grade measures 15% for a total distance of approximately 8.6m (refer to Figure 5 below). Despite the benefits to the trees and sightlines, this creates challenges in maintaining an accessible pathway with the current alignment.

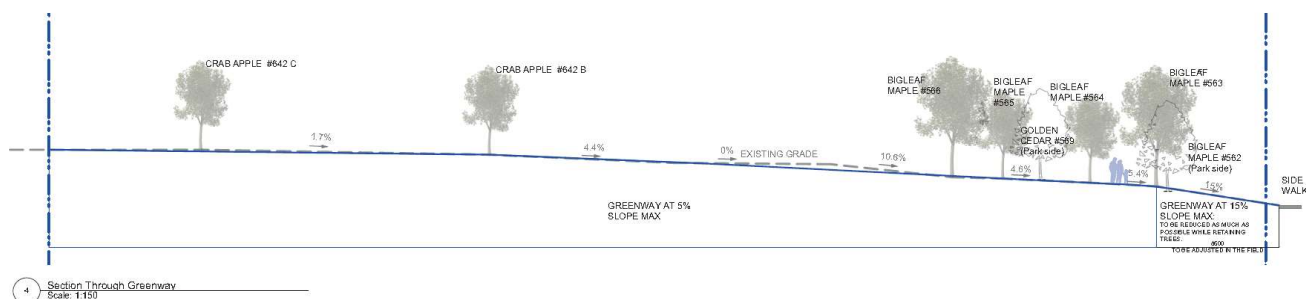


Figure 5. Proposed grades for Greenway

To decrease the degree of incline at the Washington Avenue end of the path, the area of the planned path would need to be regraded (scraped down) to make a more gentle slope, which would likely result in damage to and probable removal of at least three non-bylaw protected maple trees on the neighbour's property (3106 Washington Avenue). The neighbour at 3106 Washington, has indicated to staff and the applicant that they would not support the removal of these trees. An alternate solution could involve deferring the construction of the pathway to have some or all of it accommodated on the property at 3106 Washington Avenue. However, staff are not recommending this approach as it is not known if or when this property will redevelop.

Given all the concerns discussed in the report, it is recommended that the proposal be referred back to staff so that the applicant can consider other options to better meet pathway accessibility objectives on site. Potential options may result in different tree impacts, adjustments to the site planning, and/or a potential loss of dwelling units. Alternatively, the site could be developed as proposed, with the steeper grades, and this option has been included in the Alternate Motion.

Regulatory Considerations

Statutory Right-of-Way

The applicant is willing to provide an SRW of 1.0m on Washington Avenue for the reconstruction of the sidewalk.

Financial Implications

There are new City assets that would be added if this application is approved, and staff have calculated the annual maintenance costs associated with the Doric Connector and addition of street trees and boulevard. Once the new assets are in place, these following costs would be reflected in the City's Financial Plan.

Doric Connector

The cost estimate for paving and installing the lighting and fencing within the easement area on the property located at 3095 Carroll Street is approximately \$68,000. There would also be an increase to the City's operations and maintenance budget of approximately \$1500 per year to maintain the pathway that would take effect following completion of construction.

Funding for this project is not in the 2020 Financial Plan. Should Council choose to approve this project, it is recommended that the funding come from the Buildings and Infrastructure Reserve.

Street Trees and Boulevard

Summarized in the table below are the annual maintenance costs that would be incurred by the city following the planting of five new street trees, and installation of a grass boulevard and irrigation system.

Increased Inventory	Annual Maintenance Cost
Street Trees - 5 net new	\$300
Grass Boulevard – approx. 112 m ²	\$672
Irrigation System	\$400
Total	\$1372

CONCLUSIONS

The proposal to increase the density and construct 34 strata dwelling units would attract a mix of residents, including households with children, by increasing opportunities for innovative forms of ground-oriented housing. The applicant would also be constructing a large section of the Doric Connector, which is a high-priority east / west pedestrian and bicycle connection in the neighbourhood. Notwithstanding the project benefits, staff continue to have concerns related to building transition and the proposed grades of the Doric Connector, which are not accessible in some sections along the pathway. As a result, the recommendation for Council's consideration is to refer this application back to staff for further refinements. Staff have also provided an alternate motion should Council choose to advance the application "as is" to a Public Hearing.

ALTERNATE MOTION

Option 1 (Advance the application to a Public Hearing "as is")

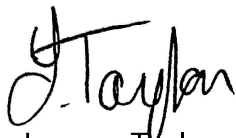
1. That Council instruct the Director of Sustainable Planning and Community Development to prepare:
 - a. the necessary Official Community Plan amendment bylaw in accordance with Section 475 of the *Local Government Act* and the necessary Zoning Regulation Bylaw amendment that would change the Urban Place Designation of 3080, 3082 and 3090 Washington Avenue from Traditional Residential to Urban Residential and authorize the proposed development outlined in the staff report dated September 17, 2020 for Rezoning Application No. 00714; and
 - b. the necessary bylaw in order to terminate the Land Use Contract F32837 pertaining to 3080, 3082 and 3090 Washington Avenue.
2. That first and second readings of the zoning bylaw amendments and the Land Use Contract termination bylaw be considered by Council and a public hearing date be set once the following conditions are met:
 - a. Preparation of legal agreements executed by the applicant to secure the following, with form satisfactory to the City Solicitor:
 - i. a Housing Agreement to ensure that future strata bylaws do not prohibit the rental of dwelling units, to the satisfaction of the Director of Sustainable Planning and Community Development;

- ii. a statutory right-of-way of 1.00m on Washington Avenue for highway purposes, to the satisfaction of the Director of Engineering and Public Works;
 - iii. a statutory right-of-way of 4.2m on the subject properties for the construction of the Doric Connector greenway, to the satisfaction of the Director of Community Planning and Sustainable Development and the Director of Engineering and Public Works; and
 - iv. construction of the Doric Connector greenway by the applicant, to the satisfaction of the Director of Community Planning and Sustainable Development and the Director of Engineering and Public Works.
3. That Council consider who is affected by the proposed changes to the Official Community Plan, and determine that the following persons, organizations and authorities will be affected:
 - a. those property owners and occupiers within a 200m radius of the subject properties.
4. That Council provide an opportunity for consultation pursuant to section 475 of the Local Government Act, and direct the Director of Sustainable Planning and Community Development to:
 - a. mail a notice of the proposed OCP Amendment to those property owners and occupiers within a 200m radius of the subject properties; and
 - b. post a notice on the City's website inviting affected persons, organizations and authorities to ask questions of staff and provide written or verbal comments to Council for their consideration.
5. That Council consider that no consultation is necessary with the Capital Regional District Board, Councils of Oak Bay, Esquimalt and Saanich, the Songhees and Esquimalt First Nations, the School District Board, or the provincial or federal governments or their agencies because the proposed OCP amendment does not affect them.
6. That Recommendations 1 to 5 be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

Option 2 (Decline)

That Council decline Rezoning Application No. 00714 for the property located at 3080, 3082 and 3090 Washington Avenue.

Respectfully submitted,



Leanne Taylor
Senior Planner
Development Services Division



Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date: September 23, 2020

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans dated August 7, 2020
- Attachment D: Letter from applicant to Mayor and Council dated March 18, 2020
- Attachment E: Washington Avenue Project Rationale dated August 21, 2020
- Attachment F: Landscape Rationale dated March 23, 2020
- Attachment G: Arborist Report dated August 6, 2020
- Attachment H: Heritage Assessments for 3080 and 3082 Washington Avenue dated December 10, 2019
- Attachment I: Land Use Contract
- Attachment J: Tenant Assistance Plan
- Attachment K: Community Association Land Use Committee Comments dated September 3, 2019 and August 24, 2020
- Attachment L: Correspondence (Letters received from residents).