



Council Report

For the Meeting of November 12, 2020

To: Committee of the Whole **Date:** October 29, 2020

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

Subject: **Update on Rezoning Application No. 00634 and Development Permit with Variance Application No. 000527 for 324/328 Cook Street and 1044, 1048 and 1052/1054 Pendergast Street**

RECOMMENDATION

That Council give first and second reading of the Zoning Regulation Bylaw Amendment No. 20-081 (Amendment No. 1233), and give first, second and third readings of Housing Agreement (324 Cook Street) Bylaw No. 20-082.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with an update regarding the Rezoning and Development Permit with Variance Application for the properties located at 324/328 Cook Street and 1044, 1048 and 1052/1054 Pendergast Street. The proposal is to increase the density and construct a four-storey, mixed-use building with commercial uses and residential uses at an overall density of 2.19:1 floor space ratio.

In accordance with Council's motion of May 21, 2020, included below, the necessary conditions that would authorize the approval of Rezoning Application No. 00634 have been fulfilled.

Description of Proposal

This Rezoning Application is to rezone from the CR-3M Zone, Commercial Residential Apartment Modified District, and the R-K Zone, Medium Density Attached Dwelling District, to a new site-specific zone in order to increase the density and construct a four-storey, mixed-use building with commercial uses and residential uses at an overall density of 2.19:1 floor space ratio. The new zone would allow for reduced setbacks and increased density, height, and number of storeys in comparison to the CR-3M Zone.

The relevant motion reads:

Rezoning Application No. 00634

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00634 for

324/328 Cook Street and 1044, 1048 and 1052/1054 Pendergast 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:

1. Preparation and execution of the following legal agreements:
 - a. Statutory Right-of-Way securing 1.38 metres of the site adjacent to Pendergast Street, to the satisfaction of the Director of Engineering and Public Works.
 - b. Housing Agreement ensuring that future strata bylaws cannot restrict the rental of units to non-owners, to the satisfaction of the Director of Sustainable Planning and Community Development.
 - c. Section 219 Covenant securing an amenity contribution in the amount of \$136,163.47 toward the Local Amenities Reserve Fund, to the satisfaction of the Director of Sustainable Planning and Community Development.
 - d. Section 219 Covenant to secure the construction of the following public realm improvements, to the satisfaction of the Director of Engineering and Public Works:
 - i. raingardens along Pendergast Street;
 - ii. enhanced boulevard planting and low seating walls; and
 - iii. permeable and impermeable concrete sidewalk pavers.
 - e. Section 219 Covenant to secure the maintenance of the proposed rain gardens and boulevard planting for a period of one year to the satisfaction of the Director of Parks, Recreation and Facilities.
 - f. Section 219 Covenant securing an amenity contribution in the amount of \$161,356.80 toward the Victoria Housing Reserve Fund, to the satisfaction of the Director of Sustainable Planning and Community Development.
2. Update report to Council on the potential acquisition of the commercial strata unit located at 380 Cook Street at 25% below market value.

Development Permit with Variance No. 000527

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. 00634, if it is approved, consider the following motion:

“That Council authorize the issuance of Development Permit with Variance Application No. 00527 for 324/328 Cook Street and 1044, 1048, 1052/1054 Pendergast Street, in accordance with:

1. *Receipt of final plans, generally in accordance with the plans date stamped October 9, 2019, with refinement of the artwork panels, to the satisfaction of the Director of Sustainable Planning and Community Development.*
2. *Development meeting all Zoning Regulation Bylaw requirements, except for the following variance:*
 - i. *increase the building height from 13.5m to 16.2m (to the projecting portions of the roof).*
3. *The Development Permit lapsing two years from the date of this resolution.”*

Update on Conditions

Legal Agreements

- an executed housing agreement was provided to ensure that a future strata cannot restrict rental of the dwelling units
- a 1.38 metre wide statutory right-of-way along Pendergast Street has been registered on title.
- a 219 covenant securing public realm improvements along Cook Street and Pendergast Street and the maintenance of the proposed rain-gardens for a period of one year has been registered on title.

Community Amenity Contributions

The amenity contributions to the Local Amenities Reserve Fund (\$136,163.47) and Victoria Housing Reserve Fund (\$161,356.80) have been included as conditions of additional density within the new zone and would be provided with a future building permit application to construct the proposed building. Until the amenity contributions are paid, they shall be adjusted annually by adding to the base contribution amounts an amount calculated by multiplying that base contribution as of the previous year by the annual percentage increase in the Consumer Price Index (CPI) for Victoria.

Commercial Strata Unit Acquisition

As noted in the applicant's letter to Mayor and Council dated October 26, 2020, the applicant is offering a commercial strata unit adjacent to the Cook Street Village Activity Centre (CSVAC) at a discount of 20.4% from fair market value as a community amenity associated with this proposal. At a Closed Council meeting on October 22, 2020, Council authorized staff to complete negotiations with Aragon Properties to acquire Strata Unit #2 at 380 Cook Street (Southgate Villa) for \$589,225. This represents a \$150,775 reduction from the fair market value, which was determined by an independent Appraisal Institute of Canada appraiser. As a consequence, an irrevocable right of first refusal at 79.6% of fair market value has been included as a condition of additional density within the proposed new zone. Although Council has provided this authorization for the acquisition of the strata unit, it has not yet considered the merits of the land use application.

CONCLUSIONS

The recommendation provided for Council's consideration contains the appropriate language to advance these applications to a Public Hearing.

Respectfully submitted,



Alec Johnston
Senior Planner

Development Services Division



Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date: November 2, 2020

List of Attachments

- Attachment A: Applicant's letter to Mayor and Council dated October 26, 2020.