

G. BYLAWS

G.1 Bylaw for 324/328 Cook Street and 1044, 1048, and 1052/1054 Pendergast Street: Rezoning Application No. 00634 and Development Permit with Variance Application No. 000527

Moved By Councillor Young
Seconded By Councillor Alto

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.

CARRIED UNANIMOUSLY



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 Hoes, 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.



Via Email and Mail

Updated October 26, 2020

Mayor and Council
City of Victoria
c/o 1 Centennial Square
Victoria, BC V8W 1P6

Re: Cook & Pendergast Street, Response to Council's Request for Affordable Housing & Clarification to the Proposed Daycare

Dear Mayor and Council,

We would like to provide you with some additional information in support of our Rezoning and Development Application.

While investigating the purchase of the land on the corner of Cook and Pendergast Street in 2017, we did extensive research into the official community plan, the City of Victoria's stated policies, and had many discussions with local neighbours, architects, and developers. At the time of purchase, the Official Community Plan envisioned a maximum height of 6 stories and a split of 2.0 and 2.5 FSR across the site, in addition to a range of other guidelines from Community Amenity Contributions (CAC) together with planning principles to allow a successful multifamily building.

At that time we recognized the significance of this site to the Cook Street Village Community, and we engaged with the neighbourhood extensively. Aragon managed eight (8) Neighbourhood and CALUC meetings over a 6 month span. We listened to the community and made substantial changes to our original plan. While we could not accommodate every comment/suggestion of the neighbours who came to speak, we listened to each of them, and very carefully addressed the common issues in creating a successful design. Cascadia Architects should be given a large amount of credit for listening and being flexible by changing the look and feel of the building to fit with the neighbourhood's comments. We made the decision at that time, well before the Fairfield Community Plan was developed, to lower the height from 6 stories to 4 stories. Also, from these meetings grew some excellent additions to the project, such as the addition of vertical panels of art which are to be designed by a Coast Salish Artist, Chris Paul. We ultimately made our application in February of 2018.

At our Committee of The Whole (COTW) meeting in November of 2018, we were asked by council to go back and assess our project's ability to include affordable housing. Since then we have met with BC Housing, and looked hard to find a way to include affordability with the current building. Ultimately in order to incorporate affordable housing, while making the project work financially we would require either funding from a 3rd party program, such as BC Housing's CHF fund, or pay for this affordable housing by changing the project to incorporate additional density. The reasons why we did not pursue these options is that both options would require a full re-design of the project. Further the "Interim Density Bonus Policy" as well as the recently adopted "Inclusionary Housing and Community Amenity Policy" both explicitly exempt projects previously submitted such as ours. We believe a full re-design would ultimately result in a building which the community will not be satisfied with. However, we do recognize the need to provide affordable housing in Victoria and thus have decided to make a contribution to the Affordable Housing Reserve fund as outlined below.

At the time of our COTW meeting last November, we offered our commercial strata unit, #2 – 280 Cook Street, in the neighboring "Cook Street Activity Center" building at a subsidized rental rate in order to allow a daycare to

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occupy this space. Unfortunately, this proposal was ultimately turned down by the Strata Council of this building. It is our opinion that the Strata Council simply did not want a daycare in their building. As a result, providing a daycare in this space is no longer possible. We were willing to offer a daycare at 50% reduced rental rate for 7 years, with an additional 25% discount on rental rate for the following 3 years (for a total of 10 years of discounts), and we estimated this market rate of rent to be \$16, triple net, per square foot. This contribution amounted to an estimated reduction in rent of \$161,356.80. As the daycare is no longer an option, and in an effort to provide a meaningful contribution towards affordable housing in Victoria, **Aragon is including the donation of the previously proposed reduction in rent (\$161,356.80) for the daycare towards Victoria's Affordable Housing Fund. This is in addition to the \$136,163.47 currently being offered as part of the project's CAC which can be used at the discretion of council.**

Our efforts with the daycare lead us to have a discussion with the City's Real Estate acquisition team, who have expressed that the CSVAC has identified a desire to expand their programming if they can acquire additional space. This space could be provided by our adjacent commercial unit. #2 – 380 Cook and would allow the City to expand CVSAC programming and/or other civic services. We recognize the contribution of the Cook Street Activity Center with improving the livelihood of the member of the Cook Street Community, and the demand for increased space and programming of that organization. **As a result, we would also like our application to include the option for the city to acquire the space at #2- 380 Cook Street, at a 20.4% reduction on fair market value.** Currently this unit is estimated to be valued at \$740,000, thus, **this discount would represent an additional \$150,960 in contribution as part of the application.** We understand that we will still need to work with the City's Real Estate teams to fairly and openly direct the appraisal and process the city's acquisition.

In summary, Aragon's contribution to the City of Victoria as a result of our application totals as follows:

- A) CAC Contribution - \$136,163.47**
- B) Affordable Housing Contribution in-lieu of Daycare - \$161,356.80**
- C) Discounted value of Commercial Unit to allow for Cook Street Activity Centre Expansion - \$150,960.00**

Total Contribution \$ 448,480.27

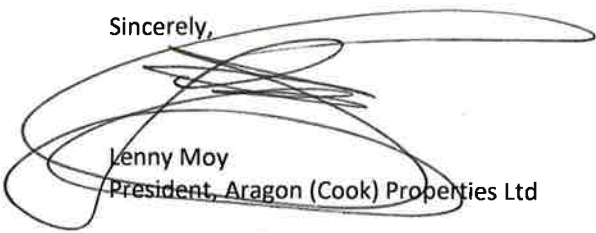
We sincerely believe that this project will be a positive addition to the Cook Street Village community and we are satisfied that we have met our goal to go above and beyond the City's policies which were current at the time of their application.

We hope the Mayor and Council can conclude that our application was made under the guidelines existing at that time and evaluate it under those circumstances existing at that time. We believe we have an outstanding project through extensive community consultation and support.

We respectfully seek your approval of our application.

We are available to answer your questions as required. We will follow up with a meeting request in order to provide any clarifications required.

Sincerely,



Lenny Moy
President, Aragon (Cook) Properties Ltd