



For the Council Meeting of December 10 2020

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**Date:** Monday December 7

**From:** Mayor Helps

**Subject:** Reconsideration of 324/328 Cook Street and 1044, 1048, and 1052/1054 Pendergast Street: Rezoning Application No. 00634 and Development Permit with Variances Application No. 00527

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### **Late Motion Rationale**

This motion was submitted late as I was still involved in conversations relevant to reconsideration after the motion deadline. This matter is of a time sensitive nature as the 30 days I have to bring something back for reconsideration will expire before the first January council meeting.

### **Background**

On November 26<sup>th</sup> 2020, Council held a hearing for a rezoning and development permit with variances for four story condo building at Cook and Pendergast that included a contribution to the City's housing reserve fund, a contribution to a local neighbourhood amenity fund and the below market sale of an adjacent property to the City to be used as a Health Clinic by the Cook Street Village Activity Centre. After hearing from the applicant and members of the public, as well as considering correspondence received, Council, on a tie vote, turned down third reading of the zoning bylaw.

I have been sincerely struggling with Council's decision on this matter and will outline in the section below why I think Council should reconsider this decision.

As Mayor, I have the authority under section 131 of the Community Charter to require Council to reconsider and vote again on a matter. See Appendix A. I must simply require Council to reconsider and vote again as opposed to asking Council to first pass a motion to put the matter back on the table for discussion. At my request, Council must debate and vote on whether they want to up hold the decision from November 26<sup>th</sup> or rescind it.

Staff's advice is that if Council wishes to rescind the decision, the legislation's provisions around reconsideration being "subject to the same conditions that applied to the original decision" are construed on balance to mean that a reconsideration should be done with another public hearing held before a vote to consider the bylaw is taken. This has added transparency, eliminates the "new information" possibility, but most importantly is considered to be the intent behind that legislative requirement. I have contacted the applicant and asked if they would be willing to participate in a new public hearing and received an answer in the affirmative.

### **Rationale for Reconsideration**

This is only the second time since being elected as Mayor that I have decided to request that Council reconsider a decision made at a public hearing. It is not a power that I use lightly. However, I feel strongly that a family housing development in a village centre where the OCP determines that density should go, and with the City having declared a Climate Emergency and compact land use planning as a key climate mitigation strategy, that these important matters should not be decided on a tie vote. Council has been without a full complement since early August 2019. This is the first time in that 16 month period that a significant development has been defeated by a tie at a public hearing. With the byelection to be held on Saturday, Council will have a full complement of nine members when a new public hearing would be held in the new year. That will allow the matter to be decided more definitively one way or the other.

At the public hearing on November 26<sup>th</sup> the applicant surely also heard Council's concern about insufficient affordability to warrant granting the rezoning. Despite the fact that this application was made before Council's current inclusionary housing policy was adopted, some members of Council commented on needing to see affordable housing on site; others made comments that there was an insufficient contribution to the City's Housing Trust Fund to grant the rezoning. The applicant may wish to address some of these comments at the time a new public hearing is held in the new year.

### **Next Steps**

The Community Charter section 131 requires that "On a reconsideration under this section, the council must deal with the matter as soon as convenient." Staff will convene a new public hearing early in 2021 at which point Council will consider whether to uphold or rescind its decision with regard to third reading of Zoning Regulation Bylaw, Amendment Bylaw (No. 1233) No. 20-081.

### **Recommendation**

That Council rescind its decision with regard to third reading of Zoning Regulation Bylaw, Amendment Bylaw (No. 1233) No. 20-081 and direct staff to convene a new public hearing that follows all the regular public hearing requirements (advertising, mailout, etc).

**Respectfully Submitted,**



Mayor Helps

## **APPENDIX A – Community Charter Excerpt**

### **Mayor may require council reconsideration of a matter**

**131** (1) Without limiting the authority of a council to reconsider a matter, the mayor may require the council to reconsider and vote again on a matter that was the subject of a vote.

(2) As restrictions on the authority under subsection (1),

(a) the mayor may only initiate a reconsideration under this section

(i) at the same council meeting as the vote took place, or

(ii) within the 30 days following that meeting, and

(b) a matter may not be reconsidered under this section if

(i) it has had the approval of the electors or the assent of the electors and was subsequently adopted by the council, or

(ii) there has already been a reconsideration under this section in relation to the matter.

(3) On a reconsideration under this section, the council

(a) must deal with the matter as soon as convenient, and

(b) on that reconsideration, has the same authority it had in its original consideration of the matter, subject to the same conditions that applied to the original consideration.

(4) If the original decision was the adoption of a bylaw or resolution and that decision is rejected on reconsideration, the bylaw or resolution is of no effect and is deemed to be repealed.