



Committee of the Whole Report

For the Meeting of December 10, 2020

To: Committee of the Whole **Date:** November 26, 2020

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

Subject: Rezoning Application No. 00735 for 3120 Washington Avenue

RECOMMENDATION

That Council decline Rezoning Application No. 00735 for the property located at 3120 Washington Street.

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 for a Rezoning Application for the property located at 3120 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 a strata development consisting of eight, two-storey single-family dwelling units on a lot.

The following points were considered in assessing this application:

- the subject property is designated Traditional Residential in the *Official Community Plan*, 2012 (OCP) which supports ground-oriented buildings up to two-storeys, and a density up to 1:1 floor space ratio (FSR). The applicant is proposing a density of 0.52:1 FSR,

which is consistent with density policies in the OCP.

- 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 row houses and 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 proposal is not consistent with the housing typologies envisioned for large lots on Washington Avenue. Furthermore, there are no specific land use policies within the OCP and BGNP supporting more than one single-family dwelling on a lot, also known as a “cottage cluster” or “detached townhouses.”
- The applicant is proposing ground-oriented and family size units with private outdoor space; however, if the property was consolidated with neighbouring lots then more efficient densities, circulation and site layouts could be realized. Therefore, the current proposal is not supportable.

Since this is a Rezoning Application, the matters for Council’s consideration are the appropriateness of the density and use which in this case relates to the form of development (eight single-family dwellings) being proposed.

BACKGROUND

Description of Proposal

This Rezoning Application is to increase the density and construct a strata development consisting of eight, two-storey single-family dwelling units on a lot.

The differences from the existing R1-B Zone are related to increasing the density and the number of single-family dwellings permitted on a lot, and reducing setbacks. These would be accommodated in the new zone.

Affordable Housing

The applicant proposes the creation of eight new 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.

Tenant Assistance Policy

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

Sustainability

The applicant is proposing sustainable stormwater management features throughout the site, such as permeable pavers and raingardens.

Active Transportation

The applicant has not identified any active transportation impacts associated with this application.

Public Realm

No public realm improvements beyond City standard requirements are proposed in association with this Rezoning Application.

Accessibility

The British Columbia Building Code regulates accessibility as it pertains to buildings. The proposed landscape and pathways surrounding the buildings are designed to be accessible. All single-family dwellings contain steps to the entryways due to the existing grade on site.

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 a single-family dwelling. Under the current R1-B Zone, the subject 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, and the R1-47 Zone, Washington Cottage Cluster District, a new zone that was recently created for an approved housing cluster (four single-family dwellings on a lot) across the street from this proposal, which is also inconsistent with policy. An asterisk is used to identify where the proposal does not meet the requirements of the existing Zone.

Zoning Criteria	Proposal (all buildings combined)	Existing Zone (R1-B Zone)	Zone Standard (R1-47 Zone)
Site area (m ²) – minimum	1997.63	460	899
Number of dwelling units – maximum	8*	1	4
Combined floor area (m ²) - maximum	1045.17	460	634
Density (Floor Space Ratio) – maximum	0.52:1	n/a	0.71:1
Lot width (m) – minimum	23.60	15	22
Height (m) – maximum	6.66 (lowest) 7.18 (highest)	7.60	7.45

Zoning Criteria	Proposal (all buildings combined)	Existing Zone (R1-B Zone)	Zone Standard (R1-47 Zone)
Storeys – maximum	2	2	2
Site coverage (%) – maximum	30.32	40	33.50
Open site space (%) – minimum	48.02	n/a	49
Setbacks (m) – minimum			
Front	3.66* / 1.02* (stair projection)	7.50 / 2.50 (stair projection)	2
Rear	3.31*	21.00	2.75
Side (north)	1.50*	2.36	1.50
Side (south)	1.50*	3	1.50
Combined side yards	3*	4.50	n/a
Parking – minimum	8	8	4
Bicycle parking stalls – minimum	0	0	0

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant gave an initial presentation to the Burnside Gorge CALUC at their regular meeting held on November 18, 2019. The presentation was advertised in the Burnside Gorge newsletter and the applicant delivered notices to surrounding neighbours. However, as a result of the Covid-19 pandemic, the CALUC cancelled the formal Community meeting and notified the City in a letter dated April 21, 2020 (attached) that they support this application proceeding through the rezoning process without a formal community meeting.

ANALYSIS

Official Community Plan

The subject property is designated Traditional Residential in the *Official Community Plan, 2012* (OCP), which supports ground-oriented buildings up to two-storeys and a density up to 1:1 floor space ratio (FSR). The proposal complies with the OCP from a use, height and density perspective; however, the proposed clustering of eight single-family dwellings on one lot is not a housing typology that is contemplated in the OCP or supported in other policy documents.

Specific details of the proposal include the following:

- traditional architectural features such as pitched rooflines, traditional-style windows, and prominent entryways
- exterior finishes such as cement board panels and shingles, horizontal cement board siding, fibreglass shingles and metal roofs
- each unit contains front and rear yard private outdoor patios
- a community garden consisting of eight raised garden boxes (one per dwelling unit), a small shed and potting area
- soft landscaping includes food-bearing, pollinator and native plant species
- each unit contains a garbage and recycling enclosure
- one driveway access into site, and eight surface parking spaces (one per dwelling unit) screened from public view.

Built form, Landscape and Urban Design

The OCP encourages a high quality of architecture, landscape and urban design to enhance the visual identity and appearance of the city. From an architectural perspective, the proposed eight single-family dwellings contain traditional architectural features that complement the existing neighbourhood context, which consists of several traditional-style buildings with heritage value. With respect to landscaping, the applicant has integrated private and semi-private outdoor space throughout the site with substantial soft-landscaping and permeable surface treatment.

From an urban design perspective, staff encouraged the applicant to consider a consolidation with neighbouring lots to achieve more efficient densities, communal greenspace, circulation and site layouts rather than bringing forward a piecemeal approach to development along the west side of Washington Avenue. In response to this feedback, the applicant did show a driveway extension into the rear lot of the neighbouring property to the south (3106 Washington Avenue) with some conceptual building footprints; however, the proposal did not comply with the Subdivision and Servicing Bylaw or Zoning Regulation Bylaw, and therefore, the applicant removed this conceptual design from the plans given that the neighbouring property is not part of this rezoning application.

Housing

The OCP encourages a wide range of housing choices (types and tenures) in neighbourhoods to foster a diverse, inclusive, and multigenerational community. The applicant is proposing a strata development that includes eight, three-bedroom dwelling units, which would offer home ownership opportunities for families with children. However, this form of development (eight single-family dwellings on one lot) is not supported by policy.

Food Security

The OCP encourages the provision of gardens for the use of residents in new residential developments. The applicant is proposing a community garden consisting of eight raised garden boxes (one per dwelling unit), a small shed and potting area to encourage gardening and food production on site.

Burnside Gorge Neighbourhood Plan

The land use designation in the *Burnside Gorge Neighbourhood Plan*, 2017 (BGNP) is Traditional Residential, which supports ground-oriented residential buildings up to two-storeys and a density of up to 0.8:1 FSR. The Plan includes *Gorge Sub Area Ground-oriented Housing Urban Design Policies* that would apply to this site. The relevant policies include the following:

- be a good neighbour to adjacent homes, with massing mitigating impacts on neighbours
- present a friendly face, with units adjacent to the street and other public spaces
- encourage street vitality and social interaction amongst neighbours, with useable semi-private space or front porches along streets
- ensure livability and considerations for outdoor space
- contribute positively to the unique character and identity of the neighbourhood
- desired separation distance between buildings for this lot is approximately 7.18m (23.5ft).

The proposal would comply with the policies relating to the streetscape appearance, social interaction, family-oriented housing, private outdoor space, and building separation distances; however, staff have concerns with the proposed site planning, the number of single-family dwellings on the lot, minimum rear yard setbacks and the amount of site area dedicated to vehicles. Even though a similar development is currently under construction across the street (a strata development consisting of four single-family dwellings on a lot), this is not a housing typology that would be encouraged throughout the neighbourhood.

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.

This rezoning application was received after October 24, 2019, so it falls under *Tree Preservation Bylaw No. 05-106* consolidated November 22, 2019. The tree inventory in the Arborist Report (attached), includes 21 trees located on or in close proximity to the subject property: 13 bylaw-protected (11 on-site, one shared, and one off-site), six non-bylaw protected trees, a tree on the municipal frontage, and a tree that straddles the boundary of the municipal frontage and the subject site. The following is a summary of the tree-related considerations:

- three on-site bylaw-protected trees and a bylaw-protected tree straddling the west property line are proposed for retention: a Garry oak and three English hawthorns. Preservation of the on-site Garry oak will require modified excavation and footing construction as described in the Arborist Report
- an off-site bylaw-protected giant sequoia is proposed for retention
- eight on-site bylaw-protected trees, six on-site unprotected trees, a tree on the municipal frontage, and a tree that straddles the boundary of the municipal frontage and the subject property are proposed for removal
- a total of 34 trees are planned to be planted on the site, 16 of which are designated replacement trees for the removal of bylaw-protected trees. Due to an existing high-pressure water main, new trees cannot be planted in the boulevard on Washington Avenue.

Tree Impact Summary Table

Tree Type	Total	To be REMOVED	To be PLANTED	Net Change
Onsite trees, bylaw-protected	11	8	16	+8
Onsite trees, not bylaw-protected	6	6	18	+12
Municipal trees (#2074 is shared with subject property)	2	2	0	-2
Neighbouring trees, bylaw-protected (#2090 is shared with subject property)	2	0	0	0
Neighbouring trees, not bylaw-protected	0	0	0	0
Total	21	16	34	+18

Regulatory Considerations

Statutory Right-of-Way

The applicant is willing to provide a statutory right-of-way of 1.0m on Washington Avenue for the reconstruction of the sidewalk.

Development Permit Exemption

Because the form of development is for eight single-family dwellings on one lot, the proposal is exempt from requiring a development permit. However, the applicant is willing to register a legal agreement on title to secure the design of the proposed single-family dwelling units and associated landscaping in accordance with the plans dated October 13, 2020, to the satisfaction of the Director of Sustainable Planning and Community Development, if Council advances the application to a Public Hearing.

CONCLUSIONS

The proposal to construct a strata development consisting of eight single-family dwellings on a lot is not a form of development that is consistent with the land use policies outlined in the OCP or *Burnside Gorge Neighbourhood Plan*. There are currently no policies supporting more than one single-family dwelling on a lot. The subject property is suitable for some additional density in the form of house-plexes, row-houses or townhouses, and preferably through a land assembly with adjacent properties to enable the best realization of permitted development potential. If the property was consolidated with neighbouring lots then more efficient densities, circulation, and site layouts could be realized with less site area dedicated to vehicles and more opportunities for greenspace. Staff recommend for Council's consideration that the Application is declined.

ALTERNATE MOTION

Option 1

That Council direct staff to work with the applicant on a proposal that complies with the policies in the *Official Community Plan, 2012* and *Burnside Gorge Local Area Plan, 2017*.

Option 2 (Advance the application to a Public Hearing “as is”)

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00735 for 3120 Washington Avenue, 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:

- 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 cannot 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 sidewalk improvements, to the satisfaction of the Director of Engineering and Public Works;
 - iii. the design of the proposed eight single-family dwelling units and associated landscaping in accordance with the plans dated October 13, 2020, to the satisfaction of the Director of Sustainable Planning and Community Development.

Respectfully submitted,

Leanne Taylor
Senior Planner
Development Services Division

Karen Hoes, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped October 21, 2020

- Attachment D: Letter from applicant to Mayor and Council dated January 10, 2020
- Attachment E: Community Association Land Use Committee Comments dated April 21, 2020
- Attachment F: Arborist Report dated September 29, 2020
- Attachment G: Tenant Assistance Plan.