



Committee of the Whole Report

For the Meeting of May 6, 2021

To: Committee of the Whole **Date:** April 23, 2021

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

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

RECOMMENDATION

Rezoning Application No. 00634

That Council receive this report for information and a Public Hearing date be set.

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. 000527 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.”

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.

The following points were considered in assessing this revised application:

- the proposal is consistent with the *Official Community Plan* (OCP) Urban Residential and Large Urban Village Urban Place Designations, which envision densities up to 2:1 FSR and 2.5:1 FSR, respectively, for the advancement of plan objectives
- the proposal is consistent with the OCP strategic direction for the Fairfield neighbourhood which encourages residential intensification within walking distance of Cook Street Village and high-quality urban design and public realm enhancements
- the proposed development is generally consistent with the *Fairfield Neighbourhood Plan* (2019) policies for the Cook Street Village Area, which envisions buildings up to 13.5m or four storeys in height with densities up to 2.5:1 floor space ratio
- the proposal is consistent with the City's Density Bonus Policy, as the application was received before November 8, 2018, the application is eligible for a fixed-rate amenity contribution of \$5 per square foot of bonus density, which equates to an amenity contribution of \$136,163.47 towards the Local Area Reserve Fund
- the applicant is offering an additional amenity contribution of \$161,356.80 to the Housing Reserve Fund to help fund future affordable housing projects within the City
- in order to help achieve the standard Right-of-Way width, a 1.38m Statutory Right-of-Way would be provided along Pendergast Street
- the applicant is proposing public realm improvements including: raingardens, pavers and seating walls which would be secured through a Section 219 Covenant.

This Application was declined by Council on November 26, 2020 following a public hearing. On December 10, 2020, Council reconsidered this decision and subsequently rescinded third reading of the rezoning bylaw and directed staff to work with the applicant to try and address housing affordability in the project (minutes attached). The proposal has not changed from what was previously presented to Council; however, in response to Council's motion, the applicant has provided an update letter regarding the amenity contributions associated with this application and additional measures the applicant is taking to support community needs within the City.

BACKGROUND

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 concurrent Development Permit with Variance Application (No. 000527) would vary the height from 13.5m to 16.2m for a portion of the building to allow for additional living space and rooftop access for some of the fourth floor units.

The applicant has provided a revised letter to Mayor and Council dated April 16, 2021, which is attached to this report. The proposal has not changed; however, the letter provides information on a charitable donation to support homeless youth that the applicant intends to make in advance of a public hearing for this Application. Given the donation is not a land use

consideration associated with the proposal for the subject site, it will not be secured as part of this Rezoning Application.

In accordance with Council's previous direction, several legal agreements have been executed and the proposed community amenity contributions have been included in the new zone as conditions of additional density.

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

As this application was received prior to November 8, 2018, the fixed-rate provision of the *Density Bonus Policy*, 2016 applies and identifies an amenity contribution target of \$5 per square foot of bonus density for properties designated as either Urban Residential or Large Urban Village. Based on this rate, the applicant is offering an amenity contribution to the Local Amenities Reserve Fund in the amount of \$136,163.47. The applicant is also offering an additional amenity contribution to the Victoria Housing Reserve Fund in the amount of \$161,356.80.

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, 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

This application is generally consistent with the OCP, Fairfield Neighbourhood Plan and

exceeds the expectations of the *Density Bonus Policy* and *Tenant Assistance Policy*. Therefore, it is recommended for Council's consideration that the application moves forward to a Public Hearing.

ALTERNATE MOTION

That Council decline Rezoning Application No. 00634 and Development Permit with Variance Application No. 000527 for the properties located at 324/328 Cook Street and 1044, 1048 and 1052/1054 Pendergast Street.

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.

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped October 9, 2019
- Attachment D: Letter from applicant to Mayor and Council dated April 16, 2021
- Attachment E: Council Meeting minutes dated December 10, 2020
- Attachment F: Council Meeting minutes dated November 26, 2020
- Attachment G: Committee of the Whole report and attachments from March 19, 2020
- Attachment H: Correspondence (Letters received from residents since November 26, 2020).