



Council Report

For the Meeting of March 11, 2021

To: Council **Date:** March 4, 2021

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

Subject: **Update Report for Rezoning Application No. 00714 and Associated Official Community Plan Amendment and Development Permit Application No. 000566 for 3080, 3082 and 3090 Washington Avenue**

RECOMMENDATION

That the following bylaws **be given introductory readings:**

1. Zoning Regulation Bylaw, Amendment Bylaw (No. 1220) No. 21-006
2. Housing Agreement (3080, 3082 and 3090 Washington Avenue) Bylaw (2021) No. 21-007
3. Official Community Plan, Amendment Bylaw (No. 37) No. 21-008
4. Land Use Contract Discharge (3080, 3082 and 3090 Washington Avenue) Bylaw No. 21-019.

Development Permit Application No. 000566 for 3080, 3082 and 3090 Washington Avenue

That Council, after the Public Hearing for Rezoning Application No. 00714 for 3080, 3082 and 3090 Washington Avenue, if it is approved, consider the following motion:

"That Council authorize the issuance of Development Permit Application No. 000566 for 3080, 3082 and 3090 Washington Avenue, in accordance with:

1. **Plans date stamped January 19, 2021.**
2. 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 Applications for the properties located at 3080, 3082 and 3090 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 nine attached dwelling buildings (townhouses) with several units in each and one duplex, totalling 34 dwelling units. An amendment to the Official Community Plan from Traditional Residential to Urban Residential is required to facilitate this development.

The application was considered by Council at the Committee of the Whole meeting on October 1, 2020, and it came before Council on October 8, 2020, where the following resolution was approved:

Rezoning Application No. 00714 for 3080, 3082 and 3090 Washington Avenue

1. *That Council instruct the Director of Sustainable Planning and Community Development to prepare:*
 - a. *the necessary Official Community Plan amendment bylaw in accordance with Section 475 of the Local Government Act and the necessary Zoning Regulation Bylaw amendment that would change the Urban Place Designation of 3080, 3082 and 3090 Washington Avenue from Traditional Residential to Urban Residential and authorize the proposed development outlined in the staff report dated September 17, 2020 for Rezoning Application No. 00714; and*
 - b. *the necessary bylaw in order to terminate the Land Use Contract F32837 pertaining to 3080, 3082 and 3090 Washington Avenue.*
2. *That first and second readings of the zoning bylaw amendments and the Land Use Contract termination bylaw 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 do not 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 highway purposes, to the satisfaction of the Director of Engineering and Public Works;*
 - iii. *a statutory right-of-way of 4.2m on the subject properties for the construction of the Doric Connector greenway, to the satisfaction of the Director of Community Planning and Sustainable Development and the Director of Engineering and Public Works; and*
 - iv. *construction of the Doric Connector greenway by the applicant, to the satisfaction of the Director of Community Planning and Sustainable Development and the Director of Engineering and Public Works.*
 - b. *Revisions to the design of the greenway to ensure that it is wheelchair accessible, to the satisfaction of the Director of Engineering and Public Works.*
 - c. *Consideration of revisions to the design of the attached dwellings on the north and/or south property lines to achieve a sensitive transition to, and minimize impacts on, the adjacent neighbours.*
 - d. *Explore potential design changes to the greenway to see if it is possible to both retain trees and make it wheelchair accessible, to the satisfaction of the Director of Engineering and Public Works.*
 - e. *Revisions to the design of the greenway fencing to address neighbouring safety and privacy concerns to the satisfaction of the Director of Engineering and Public Works.*

3. *That Council consider who is affected by the proposed changes to the Official Community Plan, and determine that the following persons, organizations, and authorities will be affected:*
 - a. *those property owners and occupiers within a 200m radius of the subject properties.*
4. *That Council provide an opportunity for consultation pursuant to section 475 of the Local Government Act, and direct the Director of Sustainable Planning and Community Development to:*
 - a. *mail a notice of the proposed OCP Amendment to those property owners and occupiers within a 200m radius of the subject properties; and*
 - b. *post a notice on the City's website inviting affected persons, organizations, and authorities to ask questions of staff and provide written or verbal comments to Council for their consideration.*
5. *That Council consider that no consultation is necessary with the Capital Regional District Board, Councils of Oak Bay, Esquimalt and Saanich, the Songhees and Esquimalt First Nations, the School District Board, or the provincial or federal governments or their agencies because the proposed OCP amendment does not affect them.*
6. *That Recommendations 1 to 5 be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.*

Development Permit Application No. 000566 for 3080, 3082 and 3090 Washington Avenue

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. 00714, if it is approved, consider the following motion:

"That Council authorize the issuance of Development Permit Application No. 000566 for 3080, 3082 and 3090 Washington Avenue, in accordance with:

1. *Plans date stamped August 7, 2020.*
2. *The applicant revise the proposed Phasing Plan to ensure that the outdoor amenity space and Doric Connector are constructed in Phase 1 and provide more details on potential interim conditions of each phase, to the satisfaction of the Director of Sustainable Planning and Community Development.*
3. *The Development Permit lapsing two years from the date of this resolution."*

COMMENTS

Community Input on Official Community Plan Amendment

On October 8, 2020, Council directed staff to consult with property owners and occupants within 200m of the properties at 3080, 3082 and 3090 Washington Avenue through a mail-out and public notices on the City's website. To date, the City has received correspondence from 27 members of the public (attached). Additional comments received prior to the Public Hearing will be included in the Council Agenda package at that time.

As a part of supporting an accessible built environment, the City aims for topographical grades of five percent or less for pathways and greenways throughout the City. In some cases, an eight percent grade is acceptable if there are rest areas along the way. The original alignment of the Doric Connector that Council considered at Committee of the Whole (COTW) on October 1, 2020 contained a section of pathway with a grade greater than an 8% close to Washington Avenue. It was designed this way to mitigate impacts on the neighbouring trees, and this created challenges in maintaining the route as an accessible pathway. Council directed the applicant to revise the design of the pathway to ensure that it would be accessible and explore options to retain the neighbouring trees located along the north property line.

[illegible]

Figure 1. Proposed realignment of the Doric Connector

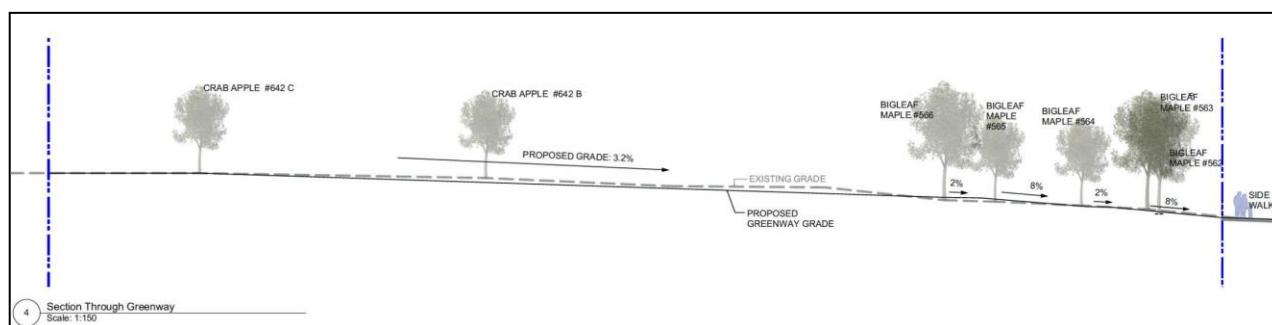


Figure 2. Proposed Grades for the Doric Connector

This proposed realignment will also allow for an additional landscape buffer between the Doric Connector and the neighbouring property to the north. The applicant is proposing to add some native understory plantings to further enhance this landscaped area, which would be maintained by the City once the area is planted. Summarized in the table below are the updated annual maintenance costs that would be incurred by the City to care for the trees, grass boulevard and irrigation system, and the native understory plantings.

Increased Inventory	Annual Maintenance Cost
Street Trees - 4 net new	\$240
Grass Boulevard - Approx. 112m ²	\$672
Native Understory Plantings - Approx. 95m ²	\$2,090
Irrigation System	\$600
Total	\$3,602

In response to Council's direction on the greenway fencing along the north side of the Doric Connector, the applicant is proposing to install a 1.8m (6ft) high black galvanized steel privacy fence to the satisfaction of the Director of Engineering and Public Works and the Director of Parks, Recreation and Facilities.

Design Revisions

Council requested that the applicant consider revisions to the design of the attached dwellings on the north and/or south property lines to achieve a more sensitive transition to, and minimize impacts on, the adjacent neighbours. In response to this request, the applicant introduced a building transition within the design of Buildings E and H by reducing the heights of the end units (units #16 and 27) from three to two storeys (refer to Figures 1 and 3). The applicant has indicated in their letter dated November 16, 2020 that this revision would reduce shadow impacts and potentially alleviate some privacy and overlook concerns. Building J, also located on the north side, is currently two storeys.



Figure 3. Proposed Elevations for Building H (Building E is the same)

The applicant reviewed building transition along the south side of the property and did not reduce the building heights of Buildings C and F, which are currently three storeys. The applicant provided a cross-section demonstrating the relationship between Building C and the existing house on the adjacent property at 3070 Washington Avenue and confirmed that Building C would be 0.76m (2.6ft) taller than the existing house, which the applicant feels is an adequate building transition (refer to Figure 4). The applicant did not reduce the building height of Building F since it would be adjacent to an existing driveway on the neighbouring property.

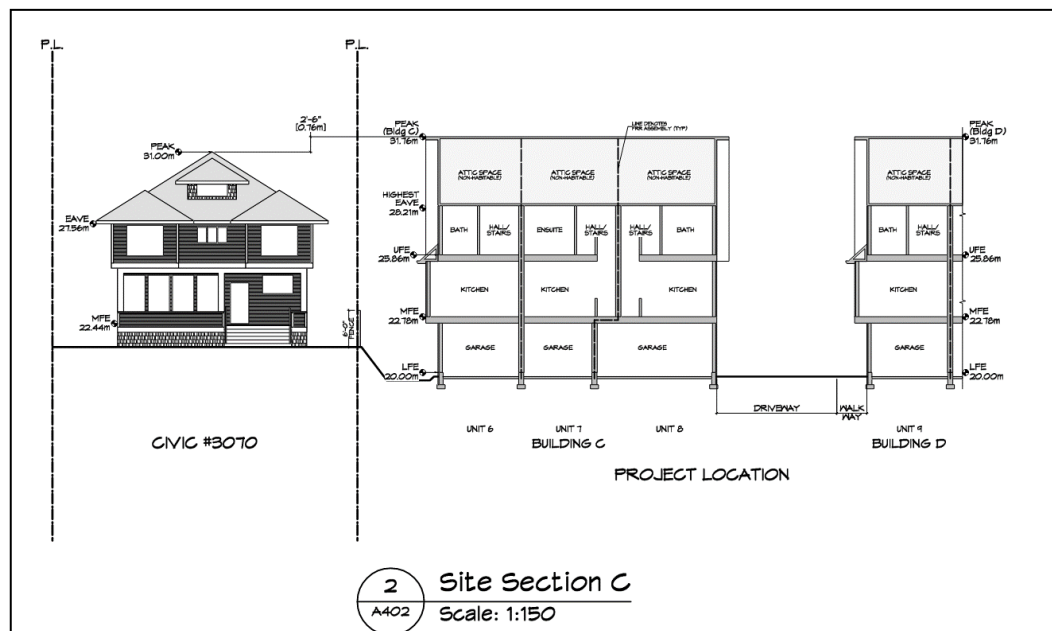


Figure 4. Site Cross-Section

Phasing Plan

Council directed the applicant to revise the proposed Phasing Plan to ensure that the outdoor amenity space and Doric Connector are constructed in Phase 1 and provide more details on potential interim conditions of each phase, to the satisfaction of the Director of Sustainable Planning and Community Development. The applicant adjusted the phasing plan in response to Council's direction to ensure that the amenities in the development are constructed in Phase 1.

Public Hearing Conditions

With regard to the pre-conditions that Council set in relation to this application, the following legal agreements have been executed by the applicant:

- a Housing Agreement to ensure that future strata bylaws do not prohibit the rental of dwelling units
- a 1.00m statutory right-of-way (SRW) on Washington Avenue
- a SRW for the construction of the Doric Connector
- a Section 219 Covenant securing the construction of the Doric Connector greenway by the applicant.

However, the applicant is not the current registered owner of the subject properties. According to the applicant, the current registered owners have entered an agreement of purchase and sale with respect to the subject properties, and the transfers to the applicant are to take place once Council gives three readings to the rezoning bylaw. The current registered owners are unwilling to execute the legal agreements, but the applicant has already executed them and intends to register them after the lots are transferred into their name (assuming Council gives the rezoning bylaw three readings).

The applicant is therefore requesting that a public hearing be held; however, if Council gives the rezoning bylaw three readings, final adoption of the bylaws will be withheld until the City receives confirmation that the legal agreements are registered on title (with the exception of the Housing Agreement, which cannot be registered until Housing Agreement Bylaw adoption). Given the situation, the recommendation provided for Council's consideration contains the appropriate language to advance this application to a Public Hearing.

Respectfully submitted,

Leanne Taylor
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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: Updated Plans dated January 19, 2021
- Attachment B: Updated Arborist Report dated January 18, 2021
- Attachment C: Updated letter to Mayor and Council dated November 16, 2020
- Attachment D: Correspondence regarding Official Community Plan Amendment.