



## **Committee of the Whole Report**

### **For the Meeting of September 23, 2021**

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**To:** Committee of the Whole **Date:** September 9, 2021

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

**Subject:** **Rezoning Application No. 00742 for 110 Menzies Street, 111 Croft Street & 450-458 Niagara Street**

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### **RECOMMENDATION**

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment and Land Use Contract Discharge Bylaw that would authorize the proposed development outlined in Rezoning Application No. 00742 for 110 Menzies Street, 111 Croft Street & 450-458 Niagara Street, that first and second reading of the Zoning Regulation Bylaw Amendment and Land Use Contract Discharge Bylaw be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Revised plans to address minor data inconsistencies, to the satisfaction of the Director of Sustainable Planning and Community Development.
2. Confirmation of BC Hydro approval of the proposed design for power supply to the development, both in the City right-of-way and on-site, to the satisfaction of the Director of Engineering and Public Works.
3. Revised site servicing plan showing a driveway crossing slope from the curb to 6 metres into the property consistent with City bylaws, to the satisfaction of the Director of Engineering and Public Works.
4. Preparation of the following legal agreements, executed by the applicant, in a form satisfactory to the City Solicitor to:
  - a. Secure the rental units for the greater of 60 years or the life of the building, to the satisfaction of the Director of Sustainable Planning and Community Development.
  - b. Secure future access from the proposed parkade and the proposed courtyard to the future Phase 2 site to the satisfaction of the Director of Sustainable Planning and Community Development.
  - c. Secure TDM measures including 233 long term bicycle stalls six of which are dimensioned for cargo bicycles, two car share parking stalls with EV charging capability, two car share vehicles and a car share membership for each of the residential units, to the satisfaction of the Director of Engineering and Public Works and the Director of Sustainable Planning and Community Development.
  - d. Secure streetscape improvements in the plaza area in the City right-of-way at the

corner of Menzies Street and Niagara Street, including the provision and installation of furnishings, materials, decorative single globe pedestrian light and concrete scoring pattern, as approved by the Director of Engineering and Public Works.

5. Secure a contribution of \$75,000 to the Housing Reserve Fund.

## **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 110 Menzies Street, 111 Croft Street and 450-458 Niagara Street. The proposal is to rezone from the R3-2 Zone, Multiple Dwelling District, and the R-K Zone, Medium Density Attached Dwelling District, to a site-specific zone in order to construct a new six-storey residential rental building with approximately 137 housing units.

The following points were considered in assessing this application:

- The proposal is generally consistent with the Urban Residential land use designation in the Official Community Plan (OCP), which envisions low to mid-rise multi-unit residential buildings up to approximately six storeys.
- The proposal is consistent with the *James Bay Neighbourhood Plan* goals to provide a range of housing opportunities and encourage high standards of design but is inconsistent with the objectives to limit heights to three to four storeys and to prohibit demolition of existing residential buildings.
- The proposal is consistent with the Tenant Assistance Policy.

## **BACKGROUND**

### **Description of Proposal**

This Rezoning Application is to rezone the properties from the R3-2 Zone, Multiple Dwelling District and the R-K Zone, Medium Density Attached Dwelling District to a site-specific zone in order to construct a new six-storey multi-unit residential rental building.

The following differences from the current zone are being proposed and would be

accommodated in a new zone:

- increase the density from 1.20 Floor Space Ratio (FSR) to 2.15 FSR
- increase the height from 18.5m to 20m
- decrease the front, rear and side yard setbacks to 7.0m
- increase the site coverage from 20% to 56%
- decrease the open site space from 60% to 44%.

While staff believe this proposal has been designed to fit the site, maintain privacy and provide appropriate transitions to neighbouring buildings, staff do not recommend enshrining the proposed setbacks and parking within a new site-specific zone. This is to ensure that, should this proposal not be constructed, any new proposals would either have to meet the setbacks or request variances from Council while demonstrating that the impact on the public realm and neighbouring properties is minimal. Therefore, the proposed building would require variances to the setbacks and to the vehicle parking requirements, which will be discussed in the concurrent Development Permit with Variances report.

### **Affordable Housing**

The applicant proposes the creation of 137 new residential units, which is a net increase of 92 units and would increase the overall supply of housing in the area. A Housing Agreement would secure the building as rental for 60 years or the life of the building, whichever is greater. In addition, the applicant will contribute \$75,000 to the Victoria Housing Reserve Fund to fund future affordable housing initiatives. It is proposed that this will be secured through a density bonus within the proposed site-specific zone.

### **Tenant Assistance Policy**

The proposal is to demolish an existing building, which would result in a loss of 45 existing residential rental units. Consistent with the Tenant Assistance Policy, the applicant has provided a Tenant Assistance Plan which is attached to this report.

### **Active Transportation**

The application proposes the following features which support active transportation:

- 233 long term bicycle stalls, including six stalls for cargo bicycles which exceeds the *Zoning Regulation Bylaw* minimum of 169 stalls
- a bicycle wash and repair room
- car share program membership for each unit
- purchase of two car share vehicles to be located on-site for residents and the broader community.

### **Public Realm**

The following streetscape improvements in the City right-of-way at the corner of Menzies Street and Niagara Street are proposed in association with this Rezoning Application:

- street furnishings
- decorative single globe pedestrian light
- concrete scoring pattern.

These would be secured with a legal agreement, registered on the property's title, prior to Council giving final consideration of the proposed Zoning Regulation Bylaw Amendment.

Road dedications of 2.60m off Niagara Street and 1.69m off Menzies Street will be required as part of a future subdivision application should the Rezoning Application be approved.

## Land Use Context

The area is characterized by a wide variety of residential uses, from single family dwellings up to multi-unit residential buildings. The James Bay Large Urban Village is located approximately 40m to the north of the subject site.

## Existing Site Development and Development Potential

The subject site presently consists of three properties: one single family dwelling, one duplex and a multi-unit residential property. The multi-unit residential property is proposed to be subdivided into two properties: one half would be consolidated with the single-family dwelling and duplex property for this application, and the applicant hopes to consolidate the other half with a separate single-family dwelling and separate duplex property for a future phase to the northwest that would connect with the subject property. Staff are therefore recommending easements be registered with the current application to secure future accesses from phase one to phase two. The necessary language is included in the staff recommendation.

Under the current R-K Zone, the single-family dwelling and duplex properties could be developed as attached dwellings such as townhouses. Under the current R3-2 Zone, the multi-unit residential property could be developed as a multiple dwelling with heights up to 18.5m and densities up to 1.6 Floor Space Ratio (FSR) if completely compliant with the zone.

## Data Table

The following data table compares the proposal with the R3-2 Zone. An asterisk is used to identify where the proposal does not meet the requirements of the existing R3-2 Zone.

Zoning Criteria	Proposal	Existing R3-2 Zone	Proposed Zone	OCP Policy
Site area (m <sup>2</sup> ) – minimum	5197	N/A	N/A	
Density (Floor Space Ratio) – maximum	<b>2.14*</b>	1.2 (parking variance reduces max density from 1.6)	2.15	2.0
Total floor area (m <sup>2</sup> ) – maximum	11130	N/A		
Height (m) – maximum	<b>19.96*</b>	18.5	20	
Storeys – maximum	6	6 or more	6	6
Site coverage (%) – maximum	<b>55.67*</b>	20	56	

Zoning Criteria	Proposal	Existing R3-2 Zone	Proposed Zone	OCP Policy
Open site space (%) – minimum	44.33*	60	44	
<b>Setbacks</b> (m) – minimum				
Street boundary (Niagara Street)	0.21 (balcony) * 0.33 (stairs) * 1.3 (building face) *	13.5	7.0	
Rear (northeast)	4.25 (stairs) * 5.15 (balcony) * 7.06 (building face) *	9.98	7.0	
Side (Menzie's Street)	0 (balcony) * 1.37 (building face) *	9.98	7.0	
Side (northwest)	2.31*	9.98	7.0	
<b>Parking</b> – minimum				
Residential	91*	146	146	
Visitor	9*	14	14	
<b>Bicycle parking stalls</b> – minimum				
Long term	233	169	169	
Short term	14	14	14	

## Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant has consulted the James Bay CALUC at a Community Meeting held on February 10, 2021. A letter dated February 16, 2021 is attached to this report. In addition, a 30-day comment period was posted to the Development Tracker on March 3, 2021. The comments from the Online Feedback Form are attached to this report.

## ANALYSIS

### Official Community Plan

The subject site is designated as Urban Residential in the *Official Community Plan, 2012* (OCP), which envisions low to mid-rise multi-unit residential up to approximately six storeys and densities up to approximately 2.0 Floor Space Ratio (FSR). The place character features call for

variable yard setbacks with primary doorways facing the street, front yard landscaping and off-street parking located at the rear or underground. Staff consider the proposal to be generally consistent with the OCP, even though the proposed density of 2.15 FSR is slightly above the envisioned amount noted in the OCP, particularly given the overall fit of the buildings within the context and that the proposal advances OCP goals related to the provision of rental housing.

The OCP considers higher density redevelopment proposals on properties with existing rental units in buildings of four or more units only if, as a voluntary amenity, the same number of rental self-contained dwelling units is maintained on-site, and the general rent level identified, or an equivalent cash in-lieu contribution is made to the City's Housing Fund. The proposal would triple the number of rental units and secure the rental tenure through a Housing Agreement, but would not secure rent levels beyond market rate. Instead, the applicant has proposed a \$75,000 contribution to the Victoria Housing Reserve Fund.

### **James Bay Neighbourhood Plan**

The subject site is designated as Residential in the *James Bay Neighbourhood Plan* (1993). The proposal is consistent with the goals to provide a range of housing opportunities and encourage high standards of design but is inconsistent with the objectives to limit heights to three to four storeys and to prohibit demolition of existing residential buildings. However, the existing R3-2 Zone, which applies to approximately 78% of the site, allows buildings to a maximum height of 18.5m and six or more storeys, and the proposal is consistent with the OCP which anticipates floor space ratios of approximately 2.0:1.

### **Inclusionary Housing and Community Amenity Policy**

The proposal is for a purpose-built rental project, which will be secured for 60 years or the life of the building through a legal agreement. Therefore, the proposal is exempt from the Inclusionary Housing and Community Amenity Policy and no amenity contributions are required.

### **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 application was received after October 24, 2019, so Tree Preservation Bylaw No. 05-106 (consolidated November 22, 2019) applies, protecting trees larger than 30 cm diameter at breast height (DBH).

Thirty-five trees have been inventoried. Seventeen of these are bylaw-protected trees located on the subject lot or on the property line and shared with neighbours. There are also six municipal trees on the Menzies Street frontage. Bylaw-protected trees #32 and #35 are off-site, on the property at 132 Menzies Street.

Of the 17 bylaw-protected trees, 13 are proposed for removal, all of which are on the subject lot. These trees are within the proposed underground parkade outline, or their removal is required for excavation to construct the proposed building. The table below outlines details on trees of notable size proposed for removal.

Tree #	Species	Diameter (DBH)	Health Condition	Structural Condition	Reason for Removal
1627	Lombardy Poplar	176	Fair	Poor	Within parkade outline
1628	Elm	102	Good	Fair	Within parkade outline
1629	Elm	87	Good	Fair	Within parkade outline
1630	European ash	80	Fair	Fair	Within parkade outline
1631	Elm	101	Fair	Fair/Poor	Within parkade outline
1632	European ash	71	Fair	Fair/Poor	Within parkade outline

All trees located on, or shared with, adjacent properties along the north property line are proposed for retention. Shoring techniques will be used to reduce potential impacts to the trees. Tree #37, a 72cm diameter at breast height (DBH) elm on the subject lot, will require pruning of up to 50% of its canopy to provide clearance for the proposed building.

Six municipal purple-leaf plum trees on the Menzies Street frontage are proposed for removal. The size of the trees ranges from 20 to 40cm DBH and many of them are infected with fungal pathogens. Removal of the trees would be required to facilitate construction of a new sidewalk, patios and walkways as well as the underground parkade excavation.

The applicant is proposing to plant 68 new trees on the subject lot, including 26 replacement trees as required by the Tree Preservation Bylaw and 18 Japanese red pines in planter pots in the roof garden. Road dedications on Menzies Street and Niagara Street will provide space to move the sidewalk and create a separated boulevard for 13 new street trees.

#### Tree Impact Summary Table

Tree Status	Total # of Trees	To be REMOVED	To be PLANTED	NET CHANGE
On-site trees, bylaw-protected	17	13	26	+13
On-site trees, not bylaw-protected	9	4	24	+20
On site trees, proposed in planter pots in the roof garden	0	0	18	+18
Municipal trees	6	6	13	+7
Neighbouring trees, bylaw-protected	2	0	0	0
Neighbouring trees, not bylaw-protected	1	0	0	0
<b>Total</b>	<b>35</b>	<b>23</b>	<b>81</b>	<b>+58</b>

## Resource Impacts

### Public Trees

Summarized in the table below are the annual maintenance costs that would be incurred by the City following the planting of seven new street trees.

Increased Inventory	Annual Maintenance Cost
Street Trees – 7 net new	\$420
Irrigation System	\$600

### Public Realm

The street corner plaza at Menzies Street and Niagara Street would be installed at the cost of the developer and would use existing City furnishings. Therefore, ongoing maintenance is expected to be minimal.

## CONCLUSIONS

The proposal is generally consistent with the heights, density and general form of the Urban Residential designation in the OCP. The proposal would create a significant increase in rental units in James Bay, which helps diversify housing choice and is one of the goals of the *James Bay Neighbourhood Plan*. However, the *James Bay Neighbourhood Plan* also notes that heights should be limited to three to four storeys and existing residential buildings should be preserved. Staff believe six storeys is acceptable in this location, and the proposal has been designed to fit relatively well within the existing context. Therefore, it is recommended that Council consider supporting the application.

## ALTERNATE MOTION

That Council decline Rezoning Application No. 00742 for the property located at 110 Menzies Street, 111 Croft Street & 450-458 Niagara Street.

Respectfully submitted,

Mike Angrove  
Senior Planner  
Development Services Division

Karen Hoesle, 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 July 9, 2021



- Attachment D: Letter from applicant to Mayor and Council submitted July 9, 2021
- Attachment E: Tenant Assistance Plan
- Attachment F: Community Association Land Use Committee Comments dated February 16, 2021
- Attachment G: Pre-Application Consultation Comments from Online Feedback Form
- Attachment H: Minutes from the March 24, 2021 Advisory Design Panel Meeting
- Attachment I: Arborist Report dated December 9, 2020
- Attachment J: Correspondence (Letters received from residents).