



Committee of the Whole Report For the Meeting of October 28, 2021

To: Committee of the Whole **Date:** October 14, 2021

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

Subject: Development Permit with Variances Application No. 000585 for 1737 Rockland Avenue

RECOMMENDATION

That Council decline Development Permit with Variance Application No. 000585 for 1737 Rockland Avenue.

LEGISLATIVE AUTHORITY

In accordance with Section 489 of the *Local Government Act*, Council may issue a Development Permit in accordance with the applicable guidelines specified in the *Community Plan*. A Development Permit may vary or supplement the *Zoning Regulation Bylaw* but may not vary the use or density of the land from that specified in the Bylaw.

Pursuant to Section 491 of the *Local Government Act*, where the purpose of the designation is the establishment of objectives for the form and character of intensive residential development, a Development Permit may include requirements respecting the character of the development including landscaping, and the siting, form, exterior design and finish of buildings and other structures.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Permit Application for property located at 1737 Rockland Avenue. The proposal is to rezone from the R1-A Zone, Rockland Single Family Dwelling District to a site-specific zone to allow for the subdivision and construction of two single-family dwellings on one panhandle lot (Lot 2). The proposal requires a development permit for Lot 2 because it is in Development Permit Area 15B: Intensive Residential – Panhandle Lot.

The following points were considered in assessing this application:

- The rezoning (see concurrent staff report) and development permit with variance applications are inconsistent with applicable policy and regulations.
- Staff consider the proposal to be inconsistent with the objectives for sensitive infill in Development Permit Area 15B: Intensive Residential – Panhandle Lot of the *Official*

Community Plan (OCP). The design of the proposal does not sufficiently mitigate the potential negative impacts of the panhandle lot on adjacent properties.

- The proposal is also inconsistent with the *Small Lot House Design Guidelines (2002)*. The proposed siting and scale of the buildings and placement of windows would have impacts on the adjacent existing properties.
- The proposed variances related to height, number of storeys, and setbacks would have substantial impacts on adjacent properties and therefore are not supportable.

On this basis, the recommendation of this report is to decline the application.

BACKGROUND

Description of Proposal

The proposal is to rezone from the R1-A Zone, Rockland Single Family Dwelling District to a site-specific zone to allow for the subdivision and construction of two single-family dwellings, as strata units, on one panhandle lot. Lot 2, the subject of this application, is a Panhandle Lot and therefore requires a development permit in accordance with Development Permit Area 15B: Intensive Residential – Panhandle Lot.

Specific details include:

- building A is a one and a half storey single-family dwelling
- building B is a two-storey single-family dwelling with secondary suite
- traditional design elements such as gable and hipped rooflines, covered front entryways, and multi-paned windows with trim and sills have been employed
- the exterior materials include hardi-shingle siding, batts on hardi-panel siding, fibreglass shingle roofing and aluminium guard rails
- new hard and soft landscaping would be introduced, including a porous asphalt driveway, large concrete slab entry walks, decorative concrete unit paver patios, trees, shrubs and ground cover.

The proposed variances are related to building heights, numbers of storeys, setbacks and site coverage.

Heritage designation (HD000195) and rezoning (REZ00755) applications have also been submitted. The rezoning application is discussed under a separate concurrent report. The heritage designation application will be brought forward in the event Council advances the application to Public Hearing as the applicant has indicated they are only interested in pursuing designation if the property is rezoned and at this point staff recommend the application is not adequately consistent with other policies and regulations.

Accessibility

No accessibility improvements are proposed beyond what is required through the *British Columbia Building Code*.

Existing Site Development and Development Potential

The site is presently in the R1-A Zone, Rockland Single Family Dwelling District. Under this zone, the site could be subdivided to accommodate two single-family homes with secondary suites (one on the panhandle lot and one on the principle lot), subject to Council's approval of a Panhandle Development Permit Application. Alternatively, the current zone would permit two

semi-attached dwellings or three attached dwellings, subject to Council's approval of a Rockland Intensive Residential Development Permit Application. The current zoning also permits House Conversions and garden suites.

Data Table

The following data table compares the proposed Lot 2 with the R1-A Zone. An asterisk is used to identify where the proposal does not meet the requirements of the existing Zone.

Zoning Criteria	Proposal (Lot 2)	Existing Zone (R1-A Panhandle)
Site area (m ²) – minimum (without driveway)	1288.00 (644.00 per building)	850.00
Number single family dwelling buildings per lot – maximum	2 *	1
Density (Floor Space Ratio) – maximum	0.30	N/A
Combined floor area (m ²) – maximum	256.53 (Building A) 296.91 (Building B) 553.45 (Total) *	280.00
Lot width (m) – minimum	29.52	24.00
Height (m) – maximum	6.87 (Building A) * 5.49 (Building B) *	5.00
Storeys – maximum	1.5 (Building A) * 2 (Building B) *	1
Site coverage (%) – maximum	25.70 *	25.00
Setbacks (m) – minimum		
West	2.27 (Building A – habitable window) *	
East	5.00 (Building B – habitable window) *	
North	9.59 (Building A – non-habitable window) 1.50 (Building B – habitable window) *	4.00 – non-habitable window 7.50 – habitable window

Zoning Criteria	Proposal (Lot 2)	Existing Zone (R1-A Panhandle)
South	7.50 (Building A – habitable window) 3.41 (Building B – non-habitable window) * 3.66 (Building B – habitable window) *	
Building Separation	10.51 (between Buildings A and B)	N/A
Parking – minimum	2 per building	1 per building

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the development application plans were posted on the Development Tracker and an online comment form provided for feedback. A letter from the Rockland Neighbourhood CALUC dated September 11, 2020 is attached to this report. The comments received from the online comment form are also attached to this report.

This application proposes variances, therefore, in accordance with the City's *Land Use Procedures Bylaw*, it requires notice, sign posting and a meeting of Council to consider the variances.

ANALYSIS

Development Permit Area and Design Guidelines

The *Official Community Plan (OCP)* identifies this property within Development Permit Area 15B: Intensive Residential – Panhandle Lot. Therefore, the *Advisory Design Guidelines for Buildings, Signs and Awnings, (1981)* and *Design Guidelines for Small Lot House (2002)* apply to the panhandle lot.

The proposed design of the buildings has traditional design elements such as gable and hipped rooflines, covered front entryways, and multi-paned windows, which fit in with the character of the neighbourhood. Although the two-car garage doors would be visually prominent on the houses, they would not be clearly visible from the public street. The addition of a second enclosed parking stall in each house does, however, drive the overall massing and site coverage.

Overall, staff consider that the proposal does not sufficiently meet the guidelines for sensitive infill development due to the impacts on privacy for the existing adjacent properties which result from window size, placement, and distance from property lines. The increased height beyond the standard panhandle single-family dwellings will also impact privacy as well as views towards the subject site. However, an alternate motion has been provided if Council chooses to move the application as proposed forward for consideration at a public hearing

Regulatory Considerations

Overall, staff consider the variances to not be supportable due to impacts on adjacent properties and the extent to which they differ from the regulations for panhandles which were designed to minimize potential conflicts and to encourage a sensitive fit with surrounding properties.

Proposed Building A – New Single Family Dwelling

The applicant is requesting variances for Building A as follows:

- increase the height from 5.00m to 6.87m
- increase the number of storeys from 1 to 1.5
- decrease the west setback (habitable window) from 7.50m to 2.27m.

The proposed increase in height and number of storeys would have minimal overlook impacts on the property to the south because there is only one window on the south facing second floor; however, the additional height, will be visible from the adjacent backyards. Although the variance to the west setback is substantial, it would primarily impact the proposed Lot 1 and would therefore be absorbed internally.

Proposed Building B – New Single Family Dwelling with Secondary Suite

The applicant is requesting variances for Building B as follows:

- increase the height from 5.00m to 5.49m
- increase the number of storeys from 1 to 2
- decrease the east setback (habitable window) from 7.50m to 5.00m
- decrease the north setback (habitable window) from 7.50m to 1.50m
- decrease the south setback from 4.00m to 3.41m (non-habitable window)
- decrease the south setback from 7.50m to 3.66m (habitable window).

The variance to the overall height is largely triggered because of the sloped site; however, it would still result in the eastern portion of the building appearing as two storeys, which is inconsistent with the regulations and guidelines' intent of reducing impacts on adjacent properties. Additionally, the variances to the setbacks will have impacts on the privacy of adjacent properties to the north, east, and south, particularly because these proposed elevations all have windows to habitable rooms.

Site Coverage for Buildings A and B

The applicant is proposing to increase the site coverage from 25.00% to 25.70%. Staff consider this to be a small amount which would have minimal impacts.

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).

25 trees have been inventoried. 12 of these are located on the subject lot, nine of which are bylaw protected. 13 trees are located off-site, including two municipal trees and seven bylaw protected trees.

Of the nine bylaw protected trees on the subject lot, seven are proposed for removal. Trees #136, #137, #138, #139, #140 and #141 are required to be removed for construction of the proposed driveway and Building B. Removal of tree #278 would be required for underground

servicing to Building A. Most of the trees proposed for removal have been assessed to have poor structure. Two bylaw protected trees are proposed for retention with this development.

All off-site trees are proposed are proposed for retention.

The landscape plan shows 27 new trees for this development, including 14 replacement trees as required by the *Tree Preservation Bylaw*. Six of the proposed trees are also replacement trees required because of the removal of three dead Garry oaks which occurred in 2018.

Tree Impact Summary Table

Tree Status	Total # of Trees	To be REMOVED	To be PLANTED	NET CHANGE
On-site trees, bylaw protected	9	7	20	+13
On-site trees, not bylaw protected	3	1	7	+6
Municipal trees	2	0	0	0
Neighbouring trees, bylaw protected	7	0	0	0
Neighbouring trees, not bylaw protected	4	0	0	0
Total	25	8	27	+19

CONCLUSIONS

The proposed form, massing and character do not sufficiently meet the goals of the design guidelines for sensitive infill development and the variances to the height, number of stories, and setbacks will have impacts on the adjacent existing properties. Staff recommend that Council consider declining this application.

ALTERNATE MOTION

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.00755, if it is approved, consider the following motion:

“That Council authorize the issuance of Development Permit with Variance Application No. 000585 for 1737 Rockland Avenue, in accordance with:

1. Plans date stamped October 8, 2021.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. increase the site coverage from 25.00% to 25.70%
 - ii. increase the height from 5.00m to 6.87m for Building A
 - iii. increase the number of storeys from 1 to 1.5 for Building A
 - iv. decrease the west setback (habitable window) from 7.50m to 2.27m for

- Building A
- v. increase the height from 5.00m to 5.49m for Building B
 - vi. increase the number of storeys from 1 to 2 for Building B
 - vii. decrease the east setback (habitable window) from 7.50m to 5.00m for Building B
 - viii. decrease the north setback (habitable window) from 7.50m to 1.50m for Building B
 - ix. decrease the south setback from 4.00m to 3.41m for Building B (non-habitable window) for Building B
 - x. decrease the south setback from 7.50m to 3.66m for Building B (habitable window) for Building B.

3. The Development Permit lapsing two years from the date of this resolution.”

Respectfully submitted,

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Karen Hoesse, Director
Sustainable Planning and Community
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Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans dates stamped October 8, 2021
- Attachment D: Letter from applicant to Mayor and Council dated June 5, 2021
- Attachment E: Community Association Land Use Committee Comments dated September 11, 2020 and Pre-Application Comments from Online Feedback Form
- Attachment F: Arborist Report dated May 9, 2021
- Attachment G: Correspondence (Letters received from residents).