



Committee of the Whole Report For the Meeting of December 9, 2021

To: Committee of the Whole **Date:** November 25, 2021

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

Subject: Rezoning Application No. 00679 for 2850 Shakespeare Street

RECOMMENDATION

That Council decline Rezoning Application No. 00679 for the property located at 2850 Shakespeare 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.

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 2850 Shakespeare Street. The proposal is to rezone from the R1-B Zone to a site-specific zone for both lots based on the R1-S2 Zone, Restricted Small Lot (Two Storey) District, in order to allow subdivision and construction of a new single-family dwelling.

The following points were considered in assessing this application:

- The proposal is consistent with the Traditional Residential Urban Place Designation, *Official Community Plan, 2012* (OCP) which anticipates the built form of ground-oriented buildings of up to two storeys.
- The proposal is inconsistent with the *Oaklands Neighbourhood Plan, 1993*, which considers infill development based on an application's merit and meeting established policies.
 - The application does not meet *Small Lot Rezoning Policy* as it has not received "satisfactory support" of 75% from immediate neighbours. Only 50% support was obtained.
 - The proposal is inconsistent with the minimum lot size specified in the *Small Lot*

Rezoning Policy and the standard small lot zone (R1-S2) due to the reduction of the minimum parcel size from 260 m² to 222 m² for both the existing dwelling and proposed new lot.

- The proposal is inconsistent with the *Small Lot Design Guidelines* and further design revisions are recommended to better meet policy objectives.
- The existing house would be retained, which is encouraged in the *Small Lot House Rezoning Policy*. Further, the applicant is willing to consider Heritage Designation of the existing house; however, the Designation process has not been fully undertaken.

As this proposal does not comply with the minimum petition support of 75% of the *Small Lot House Rezoning Policy* and does not meet the minimum lot size for small lots, staff are recommending that Council decline the application.

However, if Council wishes to advance this application, further information from the applicant is required, and further revisions are recommended to mitigate the privacy and overlook impacts on neighbours. Staff did not request this information at this stage due to the additional expense to the applicant, given the staff recommendation to decline the application, which is unlikely to change even with the provision of the materials noted below:

- an arborist report to review for compliance with the *Tree Preservation Bylaw* and *Urban Forest Master Plan* and to assess the sidewalk impact on the existing trees that would become municipal trees
- a Statement of Significance prepared by a heritage consultant to review potential Heritage Designation of the existing house
- a preliminary site servicing plan prepared by a Professional Engineer to determine servicing locations and limit conflicts with existing trees.

BACKGROUND

Description of Proposal

The proposal is to rezone 2850 Shakespeare Street from the R1-B Zone, Single Family Dwelling District, to two small lot zones, in order to subdivide the lot, retain the existing dwelling on one lot and build a new single-family dwelling on the other lot.

For the existing and proposed dwellings, a site-specific zone would be based on the standard R1-S2 Zone Restricted Small Lot (Two Storey) District, with a lower minimum site area of 222m² instead of 260m².

Existing House

The existing house would require variances from the R1-S2 Zone and will be discussed in relation to the concurrent Development Permit with Variances Application No. 00102. The variances are to:

- reduce the rear yard setback (east) from 6.0m to 3.31m
- reduce the side yard setback on a flanking street (Shakespeare Street) from 2.4m to 1.66m.

Proposed House

The following differences from the new zone would be required and will be discussed in relation to the concurrent Development Permit with Variances Application No. 00102:

- reduce the rear yard setback from 6.0m to 2.89m.

Housing Impacts

The applicant proposes the creation of one new residential unit which would increase the overall supply of housing in the area.

The applicant has indicated that each single-family dwelling on each lot would be rental. Generally, the City does not require a Housing Agreement for single family dwellings , so this this would not be secured as a condition of approval .

Tenant Assistance Policy

The proposal is to retain an existing building, which is currently providing a rental unit. This status would not change.

Sustainability Features

As indicated in the applicant's letter dated January 25, 2019, a number of sustainability features are associated with the proposed new dwelling, including:

- low flush toilets and shower heads
- permeable paving
- Energy Star appliances and windows.

Active Transportation

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

Public Realm

The subject site fronts both Morley Street and Shakespeare Street, both local roads. Currently there is no sidewalk on Morley Street. In accordance with City Standards and as a condition of Subdivision, the developer would be required to construct a sidewalk along the Morley frontage. Shakespeare Street is a designated Greenway and part of the All Ages and Abilities Cycling Network. In accordance with City Standards and as a condition of Subdivision, the developer would be required to provide a road dedication of 2.9m. This area would be used to improve mobility, accessibility, and urban forestry policy objectives by separating the sidewalk from the roadway and obstructions and providing room for street trees. This is consistent with recent small lot subdivisions in the area and would improve active transportation between Oaklands Elementary School and the surrounding neighbourhood.

Accessibility

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

Land Use Context

The area is characterized by single-family dwellings, many of which are older housing stock. Some lots in the immediate area are relatively small in comparison to most lots in the Oaklands

neighbourhood. Redevelopment on a number of lots has taken place – most notably at 1538 and 1542 Morley Street, which both have new dwelling units with suites constructed in 2013. A small lot subdivision was approved at 2832 and 2838 Shakespeare Street, which resulted in a new house construction at 1533 Morley Street, and is nearing completion.

Morley Street is a pedestrian access route to Oaklands Elementary School.

Existing Site Development and Development Potential

The site is presently occupied by a single-family dwelling constructed in 1925. Under the current R1-B Zone, the 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 standard Small Lot Zone (R1-S2 Zone). An asterisk is used to identify where the proposal does not meet the requirements of this Zone. Two asterisks are used to identify where the existing condition is legal non-conforming.

Zoning Criteria	Proposal Lot 1 (New dwelling)	Proposal Lot 2 (Existing dwelling)	Zone Standard R1-S2 Zone Restricted Small Lot (Two Storey) District.
Site area (m ²) – minimum	222.9*	222.59*	260
Density (Floor Space Ratio) – maximum	0.58:1	0.57:1	0.60:1
Total floor area (m ²) – maximum	128.57	125.94	190
Lot width (m) – minimum	13.05	13.04	10.00
Height (m) – maximum	5.87	5.35	7.50
Storeys – maximum	2	2	2
Site coverage (%) – maximum	36.90	34.47	40.00
Setbacks (m) – minimum:			
Front	6.0	2.23** (Morley)	6.00
Rear	2.89 (west)*	3.31 (north)*	6.00
Side	1.51 (south)	n/a	1.5 (non-habitable)
Side	1.51 (north)	3.86 (west)	1.5 (non-habitable)

Zoning Criteria	Proposal Lot 1 (New dwelling)	Proposal Lot 2 (Existing dwelling)	Zone Standard R1-S2 Zone Restricted Small Lot (Two Storey) District.
Side on a flanking street	n/a	1.66**	2.40
Parking – minimum	1	1	1

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant has consulted the Oaklands CALUC at a Community Meeting held on July 30, 2018. The comments are attached to this report.

In accordance with the City's *Small Lot House Rezoning Policy*, the applicant has polled the immediate neighbours and reports that 50% support the application. 2832 Shakespeare Street was identified as being in support of the application, but this property was not included in the overall statistics since it is in excess of 10m from the subject property. Under the policy, "satisfactory support" is considered to be support in writing for the project by 75% of the neighbours. The required Small Lot House Rezoning Petitions, Summary and illustrative map provided by the applicant are attached to this report. Two petitions in opposition to this proposal were submitted directly to City Hall on February 5, 2019 and March 1, 2019 and are included in the same attachment.

ANALYSIS

Official Community Plan

The *Official Community Plan, 2012* (OCP) Urban Place Designation for the property is Traditional Residential which contemplates primarily ground-oriented building forms including single, duplexes, townhouses and row-houses, house conversions. In accordance with the OCP, small lots are subject to DPA 15A: Intensive Residential - Small Lot. The proposal is generally consistent with the objectives of DPA 15A to accommodate growth in traditional residential areas in a gradual, adaptive, and small-scale way, however, due to the lot size, massing of the building and resulting shading and privacy impacts, the proposal would benefit from refinements.

Oaklands Neighbourhood Plan

The *Oaklands Neighbourhood Plan* states that small lot houses will be considered on individual merit provided that the proposal meets the small lot policy. The proposed small lots do not meet the *Small Lot Rezoning Policy* due to lack of neighbourhood support or for achieving the minimum lot size standard.

Small Lot House Rezoning Policy

The *Small Lot House Rezoning Policy* encourages sensitive infill with an emphasis on ground-oriented housing that is consistent with the existing character of development. The Policy refers

to a “Small Lot House” with a minimum lot size of 260m², prior to dedications, and a minimum lot width of 10m.

In accordance with City Standards and as a condition of subdivision, the developer would be required to provide a road dedication of 2.9m which would be used for mobility, accessibility, and urban forestry policy objectives. Following the road dedication, the proposed lots are not able to meet the minimum lot size of the Policy.

For further policy context, the City created the small lot house program over a ten-year period from approximately 1990 to 2000. This program was a joint venture with the Federation of Canadian Municipalities, Canadian Home Builders Association and Canada Mortgage and Housing. After an extensive study with pilot projects, the standard settled on for small lot house was a minimum lot size of 260m², and a maximum 0.6:1 FSR. Within the Victoria context, this parcel size was deemed appropriate to accommodate a liveable family size home with adequate outdoor private living space and still respect the privacy of neighbouring lots. It also represents a lot size that would generally limit the amount of subdivision activity whilst still maintaining the intent of creating small lot houses as a gradual ‘infill’ opportunity and a ‘good fit’ within the existing neighbourhood fabric.

While the majority of small lot houses have met this minimum standard for parcel size, there have been a number of cases where Council has approved lot sizes less than the established minimum, and the circumstances of a few of these approvals have been where the lot met the minimum parcel size requirement before any road dedications. However, in all cases the intent was to ensure the new house would meet the larger planning criteria of achieving a good fit in the context, which may have been achieved by reducing the house size, or through attention to siting (setbacks) or landscaping.

In this instance although the proposal would meet the minimum lot size without the City requirement for road dedication, it still would benefit from further revisions to minimize the privacy and overlook impacts on neighbours. This is discussed in more detail in the concurrent report for Development Permit with Variances Application No. 00102.

The existing house is being retained, consistent with the policy, which states that small lots are not intended to facilitate the demolition of existing housing.

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 before October 24, 2019, so *Tree Preservation Bylaw* No. 05-106 (consolidated June 1, 2015) applies.

The location and maturity of trees on the subject parcel creates challenges to the redevelopment, specifically sidewalk placement and sidewalk construction: a Douglas fir is located on the Shakespeare Street frontage and a horse chestnut is located on the Morley Street frontage. After road dedications required for subdivision purposes, the trees will fall within the City right of way and, if they are able to be retained through construction, will become the City’s responsibility to manage and maintain. Two additional boulevard trees will be required – one on each frontage.

Sidewalk construction or reconstruction is required along both frontages, which could potentially impact the existing trees. An arborist report is required to determine the health of the trees and

root locations and provide recommendations for tree protection. In addition, driveway construction and materials are potential threats to the health and retention of these trees. The location of underground servicing and relocating the Hydro pole must also be addressed through a preliminary site servicing plan.

Resource Impacts

The annual maintenance costs for the existing trees that would become municipal owned as well as the proposed new boulevard trees are identified in the following table.

Increased Inventory	Annual Maintenance Cost
Existing trees to be municipal owned - 2	\$120
Street trees – 2 net new	\$120
Total	\$240

Heritage Considerations

The applicant has indicated a willingness to pursue Heritage Designation of the existing house. The heritage value of the existing dwelling requires further assessment and a Statement of Significance by a qualified heritage consultant to determine if the house has sufficient heritage value and heritage character to merit designation. In addition, the applicant would need to identify any proposed building alterations to upgrade the building. The findings would require review by the Heritage Advisory Panel.

CONCLUSIONS

This proposal to rezone the subject property to a site-specific zone in order to construct a single-family dwelling is generally consistent with the objectives of the *Official Community Plan*; however, it is inconsistent with the *Small Lot Rezoning Policy* in terms of sensitive infill and neighbourhood support, and with the regulations for minimum lot sizes. The minimum lot size is not being met and the level of neighbourhood support is not considered “satisfactory” according to the *Small Lot Rezoning Policy*; therefore, staff recommend for Council’s consideration that the application be declined.

Should Council recommend that this application proceed, further information is required for staff to fully evaluate the proposal and this is outlined in the Alternate Motion below.

ALTERNATE MOTION

That subject to plan revisions as detailed in the concurrent Development Permit with Variances Application No. 00102 that the applicant provide the following and report back to Committee of the Whole:

- an arborist report to review for compliance with the *Tree Preservation Bylaw* and *Urban Forest Master Plan* and to assess the sidewalk impact on the existing trees that would become municipal trees to the satisfaction of the Director of Parks, Recreation and Culture
- a Statement of Significance prepared by a heritage consultant to review potential

Heritage Designation of the existing house to be reviewed by the Heritage Advisory Panel to the satisfaction of the Director of Sustainable Planning and Community Development

- a preliminary site servicing plan prepared by a Professional Engineer to determine servicing locations and limit conflicts with existing trees to the satisfaction of the Director of Engineering and Public Works.

Respectfully submitted,

Charlotte Wain
Senior Planner – Urban Design

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 July 11, 2019
- Attachment D: Letter from applicant to Mayor and Council dated January 25, 2019
- Attachment E: Community Association Land Use Committee Comments dated July 30, 2018
- Attachment F: Small Lot Petition Summary and Correspondence
- Attachment G: Correspondence (Letters received from residents).