



Committee of the Whole Report

For the Meeting of June 20, 2019

To: Committee of the Whole **Date:** May 30, 2019

From: Andrea Hudson, Acting Director, Sustainable Planning and Community Development

Subject: Rezoning Application No. 00675 for 515 Foul Bay Road

RECOMMENDATION

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00675 for 515 Foul Bay Road, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Preparation and execution of the following legal agreements:
 - a. A Housing Agreement to secure rental of the five unit house conversion for a ten year period and to ensure future Strata Bylaws could not restrict the rental of units, to the satisfaction of the Director of Sustainable Planning and Community Development.
 - b. A Section 219 Covenant to establish no build areas and tree protection.
 - c. A Section 219 Covenant to ensure the proposed building fire prevention sprinkler system is installed and maintained to the satisfaction of the Fire Chief.

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 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, provided such agreement does not vary the use or 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 515 Foul Bay Road. The proposal is to

rezone from the R1-G Zone, Gonzales Single Family Dwelling District, to a new site-specific zone in order to allow for an existing five unit house conversion on a panhandle lot. There is a concurrent development permit with variances application to facilitate a subdivision to create two panhandle lots, one would accommodate the existing five unit house conversion and the other would be developed with a single family dwelling. The variances are related to increased height of the new single-family dwelling as well as reduced setbacks to property lines for both buildings. There is also a concurrent Heritage Designation Application associated with this proposal as the existing building has significant heritage merit.

The following points were considered in assessing this application:

- the proposal is generally consistent with the *Official Community Plan* (OCP, 2012) Traditional Residential Urban Place Designation which encourages ground-oriented buildings up to two-storeys in height, and advances the OCP place making objectives which encourage the preservation and designation of buildings with heritage merit
- the proposal is consistent with the *Gonzales Neighbourhood Community Plan, 2002*, which encourages heritage designation of houses with heritage value and the protection of trees and natural features through the registration of covenants; however, the proposal is inconsistent with the recommendation against panhandle lot subdivision in the Queen Anne Heights/Foul Bay/Gonzales Hill portion of the neighbourhood
- the existing house was converted to five dwelling units in 1959 and the applicant is offering a ten year housing agreement to maintain rental of the existing five units
- all of the bylaw protected trees on site would be retained and the trees and rocky outcroppings would be protected under a no build/tree preservation covenant
- the proposal includes a 1.67m road dedication along Foul Bay road to help achieve a standard collector road Right-of-Way width
- the applicant is proposing to keep the existing driveway width, alignment and grade to limit blasting and potential tree impacts; therefore the new building requires a sprinkler system for fire protection.

BACKGROUND

Description of Proposal

This Rezoning Application is to allow for multiple dwellings as a result of house conversion as a permitted use on a panhandle lot and to increase the maximum combined floor area to accommodate the existing five unit house conversion on a new panhandle lot. Specific details include:

- the existing panhandle lot (4896m²) is not subject to the panhandle lot regulations under Schedule H of the *Zoning Regulation Bylaw* because it was created prior to 2009; however, the new lots would be subject to Schedule H
- under the R1-G Zone, house conversions are not permitted on panhandle lots created after 2009
- the maximum combined floor area permitted under the panhandle regulations is 280m²; whereas the existing house is approximately 773m² in area
- retaining the existing five unit house conversion on a new panhandle lot triggers a rezoning to allow for house conversion on a panhandle lot and to increase the maximum floor area.

The following changes from the standard R1-G Zone and Schedule H – Panhandle Regulations are being proposed and would be accommodated in the new zone:

- add “multiple dwellings as a result of house conversion” as a permitted use (subject to Schedule G – House Conversion Regulations)
- increase the maximum combined floor area from 280m² to 773m² (for buildings constructed prior to 1931).

Variances related to building height, setbacks and parking will be discussed in relation to the concurrent Development Permit with Variances Application.

Affordable Housing Impacts

In addition to retaining the five unit house conversion, the applicant proposes the creation of one new single family dwelling which would increase the overall supply of housing in the area. A Housing Agreement is also being proposed to secure rental of the five unit house conversion for 10 years and to ensure that future Strata Bylaws could not prohibit the rental of units.

Sustainability Features

The applicant has identified a number of sustainability features which will be reviewed in association with the concurrent Development Permit Application for this property.

Active Transportation Impacts

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

Public Realm Improvements

No public realm improvements are proposed in association with this Rezoning Application.

Accessibility Impact Statement

The British Columbia Building Code regulates accessibility as it pertains to buildings.

Land Use Context

The subject site is located in the Queen Anne Heights/Foul Bay Road/Gonzales Hill area, which is characterized by ground-oriented residential buildings on larger lots. Abkhazi Gardens is located to the south of the subject site at 1964 Fairfield Road. There are several heritage registered or designated properties in the immediate area of the subject site, which include:

- heritage-designated properties at 550 Foul Bay Road (Elora Nursing Home), 611 Foul Bay Road and 1964 Fairfield Road (Abkhazi Gardens)
- Margaret Jenkins Elementary School is on the heritage registry but is not heritage-designated.

Existing Site Development and Development Potential

The existing building was built in 1910 as a single-family dwelling. Details of the building's history can be found in the concurrent Heritage Designation Application. In 1959, the building was converted to five self-contained dwelling units. Under the house conversion regulations, the building could undergo a conversion to one of the following uses:

- nine self-contained dwelling units

- approximately 20 to 30 housekeeping units with a minimum unit size of 25.5m²
- a boarding house or rooming house for more than four but not more than 15 persons (other than members of the family of the occupier)
- a rest home – class “B”, which provides lodging and care to more than two but not more than 20 persons (other than members of the operator’s family)
- a kindergarten.

Data Table

The following data table compares the proposal with the panhandle lot regulations under Schedule H of the Zoning Regulation Bylaw for R1-G Zoned properties. An asterisk is used to identify where the proposal is less stringent than the existing zone. A double asterisk is used to identify legal non-conformities.

Zoning Criteria	Lot A (existing house conversion)	Lot B (single family lot)	R1-G Panhandle
Site area (m ²) – minimum	1972.6	1993.3	600.00
Lot width – minimum (m)	60.2	32.6	18.0
Number of units – maximum	5 *	1	1
Density (Floor Space Ratio) – maximum	0.39	0.12	n/a
Combined floor area (m ²) – maximum	772.3 *	243	280
Height (m) – maximum	11.60 **	7.58 *	5.00
Storeys – maximum	3 **	2 *	1
Site coverage (%) – maximum	16.2	8.7	25.0
Roof deck	Yes **	No	No
Setbacks (m) – minimum			
Front	0 *	2.50 * 4.27 *	4.0 7.5 (to wall with habitable window)
Rear	3.23 * 5.28 * (to wall with habitable window)	4.0 7.5 (to wall with habitable window)	4.0 7.5 (to wall with habitable window)
Side (north)	0*	15.56	4.0 7.5 (to wall with habitable window)
Side (south)	23.71	32.34	4.0 7.5 (to wall with habitable window)

Zoning Criteria	Lot A (existing house conversion)	Lot B (single family lot)	R1-G Panhandle
Parking – minimum	6 *	2	7 (Lot A) 1 (Lot B)

Relevant History

On November 23, 2017, Council declined a proposal to subdivide the parcel into four panhandle lots with the existing building retained on one lot and three single family dwellings developed on the other lots. The Heritage Designation Bylaw and Housing Agreement Bylaw prepared for that application are now associated with this rezoning proposal and would be brought forward with the Zoning Regulation Bylaw Amendment for introductory readings prior to a future public hearing should Council choose to advance the application.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant has consulted the Fairfield Gonzales CALUC at a Community Meeting held on November 8, 2018. The meeting minutes are attached to this report.

ANALYSIS

Official Community Plan

The *Official Community Plan* (OCP, 2012) Urban Place Designation for the subject property is Traditional Residential, which supports ground-oriented residential uses. The OCP states that new development may have a density of generally up to 1:1 FSR and up to two storeys in height. The OCP also notes that within each designation there will be a range of built forms and that decisions about the appropriate scale of building for a particular site will be based on an evaluation of the context in addition to consistency with OCP policies, other relevant City policies and local area plans. The proposed built form, height and density are consistent with these policies. The proposed heritage designation of the Samuel Maclure designed Mansion is also consistent with the OCP's place making policies to support the preservation of buildings with heritage merit.

Gonzales Neighbourhood Plan

The *Gonzales Neighbourhood Community Plan*, 2002 recommends a continuation of land use policies and zoning that maintains the single detached dwelling character of the neighbourhood. The proposed panhandle lot subdivision to create a new single family dwelling while preserving the existing heritage building is consistent with this policy. In addition, heritage designation of the existing house, a housing agreement to secure rental of the five suites within the existing house for a ten year period, registration of a tree covenant to protect many of the retained Garry Oaks and other significant trees, and new plantings that add to the green space character and Garry Oak ecology of the site are all elements of the proposal that are consistent with policies of the *Gonzales Neighbourhood Community Plan*.

Housing Agreement

As mentioned, the applicant is offering to secure rental of the existing five units for a ten year period through a Housing Agreement. The Agreement would also ensure that a future strata could not restrict the rental of units to non-owners. After the ten-year rental period, any strata conversion application would require Council approval subject to the Strata Conversion policy.

Road Dedication

The standard Right-of-Way for a collector street, such as Foul Bay, is 20.0m. Therefore, a road dedication of 1.67m is required on the Foul Bay frontage to help achieve a wider Right-of-Way at this location. The road dedication would be provided at the time of subdivision.

Tree Preservation Bylaw and Urban Forest Master Plan

There are many mature trees on the subject site and surrounding properties. These trees contribute to the City's urban tree canopy and the large-estate lot character of the Queen Anne Heights/Foul Bay/Gonzales Hill area. As stated in the applicant's letter, one of the principle design objectives is to preserve the mature trees and the character they lend to the site. To this end, the proposed home is situated on site to retain all of the bylaw protected trees. In addition, the proposed site coverage is below the maximum allowed in the panhandle regulations and the building is proposed at two-storey, rather than one-storey with a basement to reduce the need for blasting. The home will be built with grade-beam construction with little or no impact on nearby tree roots. The applicant is offering a Section 219 Covenant over portions of the site to provide additional protection for the retained bylaw protected trees.

A project arborist has assessed 36 privately owned trees, of which 26 are bylaw-protected. The proposed site plan retains all of the bylaw-protected trees and supports the unique Garry oak ecosystem of the Gonzales neighbourhood. In addition, 21 existing site trees are noted on the landscape plan. They were not assessed by the project arborist as they will not be affected by the proposed home and new landscaping. There are 7 trees on adjacent properties that also will not be affected by the proposed new residence.

The arborist report provided outlines tree protection measures and construction impact mitigation measures for the retained trees. Mitigation measures include driveway design and construction methods which specify driveway surface materials such as permeable paving. Underground site servicing to the proposed home have been designed to lessen impacts to site trees. The Parks Department will require that an ISA Certified arborist be onsite prior to and during construction, during excavation work within critical tree root zones of bylaw protected trees, and to supervise site servicing work and landscape construction of walls and fences within critical root zones. Tree protection measures will be secured through a landscape security.

CONCLUSIONS

The proposal is consistent with the OCP as it relates to ground-oriented residential development within Traditional Residential areas and furthers the goals in the OCP with regards to heritage preservation and encouraging development along transit corridors in close proximity to services, and providing a diversity of housing types to create more home ownership options. Staff recommend for Council's consideration that the application advance to a Public Hearing, subject to the preparation of legal agreements.

ALTERNATE MOTION

That Council decline Rezoning Application No. 00675 for the property located at 515 Foul Bay Road.

Respectfully submitted,



Alec Johnston
Senior Planner
Development Services Division



Andrea Hudson, Acting Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date:

June 13, 2019

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped May 9, 2019
- Attachment D: Letter from applicant to Mayor and Council dated February 2, 2019
- Attachment E: Community Association Land Use Committee Comments dated November 8, 2018
- Attachment F: Arborist Report dated May 3, 2019.