



## Committee of the Whole Report

### For the Meeting of January 19, 2023

---

**To:** Committee of the Whole **Date:** January 5, 2023

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

**Subject:** Rezoning Application No. 00768 and associated Development Permit with Variances Application No. 000595 for 2848 and 2852 Shelbourne Street

---

## RECOMMENDATION

### Rezoning Application

That Council decline Rezoning Application No. 00768 and associated Development Permit with Variances Application No. 000595 for the properties located at 2848 and 2852 Shelbourne Street.

## LEGISLATIVE AUTHORITY

This report discusses a Rezoning Application and a concurrent Development Permit with Variances Application. Relevant rezoning considerations include the proposal to increase the density and add townhouses as a new use while the relevant Development Permit with Variance considerations relate to:

- the application's consistency with design guidelines
- the impact of proposed variances.

### Enabling Legislation

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 489 of the *Local Government Act*, Council may issue a Development Permit in accordance with the applicable guidelines specified in the *Official 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 revitalization of an area in which multi-residential uses are permitted, 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 Rezoning Application and Development Permit with Variance Application for the properties located at 2848 and 2852 Shelbourne Street. The proposal is to rezone from the R1-B Zone, Single Family Dwelling District, to the RT Zone, Traditional Residential Attached Dwelling District, in order to permit the construction of a seven-unit townhouse.

The following points were considered in assessing the Rezoning Application:

- The proposal is consistent with the “Traditional Residential” designation in the *Official Community Plan, 2012* (OCP), which envisions ground-oriented attached dwellings up to a maximum density of 1:1 floor space ratio (FSR).
- The proposal is inconsistent with the General Development Guidance section of the OCP, which encourages the logical assembly of development sites that enable the best realization of permitted development potential for the area.
- The proposal is also inconsistent with the “Townhouses up to 18 Units per Acre - 2.5 Storey Limit” designation in the *Oaklands Neighbourhood Plan* as the proposed density is 23.3 units per acre and three storeys in height.

The following points were considered in assessing the Development Permit with Variances Application:

- The proposal is inconsistent with the design guideline in the *Oaklands Neighbourhood Plan* that seeks to ensure new buildings relate to the existing built context in terms of shape and massing.
- The proposal is inconsistent with the *Design Guidelines for Multi-Unit Residential, Commercial and Industrial* (2012) which encourage buildings to have a strong relationship to the street, be designed with sensitivity to context and reduce privacy impacts on adjacent residential uses through massing, scale and orientation.
- The proposal is inconsistent with the *Revitalization Guidelines for Corridors, Villages and Town Centres* (2017) that seek to ensure new buildings consider the rhythm and pattern of existing building facades and architectural elements in the surrounding context and include appropriate design solutions to improve privacy between adjacent buildings.
- The proposal is generally consistent with the *Advisory Design Guidelines for Buildings, Signs and Awnings* (1981).

Two variances are being requested related to:

- an increase in the maximum number of units in an attached dwelling from four to seven
- a reduction in the setback to the west side of Shelbourne Street from 10.7m to 8.4m

Staff are concerned that the large building footprint does not meet the intent of the Guidelines, which encourage breaking up the scale of longer buildings into human-scaled proportions. In addition, staff are concerned there would be an insufficient buffer to accommodate an appropriate building separation between the building face and any future public right of way improvements when the required Statutory Right-of-Way (SRW) is utilized.

## **BACKGROUND**

### **Description of Proposal**

This proposal is to rezone the properties 2848 and 2852 Shelbourne Street from the R1-B Zone, Single Family Dwelling District, to the RT Zone, Traditional Residential Attached Dwelling District, in order to establish a density of 1:1 floor space ratio (FSR) and allow multi-residential development.

A number of differences from the standard RT Zone, Traditional Residential Attached Dwelling District, are being proposed and will be discussed in relation to the concurrent Development Permit with Variances Application that proposes the construction of a seven-unit townhouse development. Specific details include:

- low-rise (three-storey) building form consisting of traditional architectural features such as pitched roof with gable ends, gable dormers and window mullion patterns
- internal garages (one per unit) at grade accessed off the vehicle drive aisle
- private amenity space in the form of rear decks on level two as well as private patios on the ground level to the rear of the building
- exterior building materials consisting of cement board, wood shingles, asphalt shingles and vinyl windows
- landscaping elements consisting of permeable herringbone pavers for the drive aisle, soft landscaping mainly around the perimeter of the site and between the rear patios including a combination of pagoda dogwood, katsura, seiryu maple, red rocket maple, silveray Korean pine and flagpole cherry trees (a total of 12 new trees), as well as various shrubs, grasses and ferns.

The proposed variances are related to:

- an increased number of units in an attached dwelling from four to seven
- a reduced setback to the west side Shelbourne Street from 10.7m to 8.27m.

### **Land Use Context**

The area is characterized by ground oriented residential land uses, ranging from single-family dwellings to townhouses.



Figure 1. Aerial photo of subject properties

## Existing Site Development and Development Potential

The site is presently occupied by two single-family dwellings. Under the current R1-B Zone, Single Family Dwelling District, the property could be developed as two single-family dwellings with the inclusion of either a secondary suite or a garden suite in each.

## Data Table

The following data table compares the proposal with the R1-B Zone, Single Family Dwelling District, and the proposed new standard, RT Zone, Traditional Residential Attached Dwelling District. An asterisk is used to identify where the proposal is less stringent than the proposed zone.

Zoning Criteria	Proposal	Existing R1-B Zone, Single Family Dwelling District	RT Zone, Traditional Residential Attached Dwelling District
Site area (m <sup>2</sup> ) – minimum	1225.34	460	920
Floor area per unit (m <sup>2</sup> ) – minimum	149.01	N/A	100

<b>Zoning Criteria</b>	<b>Proposal</b>	<b>Existing R1-B Zone, Single Family Dwelling District</b>	<b>RT Zone, Traditional Residential Attached Dwelling District</b>
Density (Floor Space Ratio) – maximum	0.99	N/A	1.0:1
Lot width (m) – minimum	24.38	15	20.0
Height (m) – maximum	10.27	7.6	10.5
Storeys – maximum	3.0	2.0	3.0
Site coverage % – maximum	39.13	40	50
Open site space % – minimum	31.95	N/A	30
Number of dwellings units in an attached dwelling	<b>7*</b>	N/A	4
<b>Setbacks (m) – minimum</b>			
Front (east)	<b>8.27*</b>	7.5	10.7
Rear (west)	4.01	7.5 or 25% lot depth	4.0
Side (north)	7.01	1.5 or 10% lot width	6.0
Side (south)	4.01	3.0 for one side yard	4.0
<b>Parking – minimum</b>			
Residential (Schedule C)	7	1	7
Visitor (Schedule C)	1	N/A	1
<b>Bicycle Parking Stalls – minimum</b>			
Short Term (Schedule C)	6	N/A	6
Long Term (Schedule C)	Private garages	N/A	N/A

## **Active Transportation**

The application proposes two bicycle racks (for a total of six stalls) located at the front of the development facing Shelbourne Street and at the rear adjacent to the visitor parking stall.

## **Public Realm**

No public realm improvements, beyond the City's standard requirements are proposed in association with this Rezoning Application.

## **Community Consultation**

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, prior to submission of the application, it was posted on the Development Tracker along with an invitation to complete a comment form on January 6, 2021. Mailed notification was sent to owners and occupiers of property within 100m of the subject property advising that a consultation process was taking place and that information could be obtained and feedback provided through the Development Tracker. A sign was also posted on site, to notify those passing by of this consultative phase. One letter from the consultation process was submitted and is attached to this report. At the time of writing this report, a letter from the CALUC had not been received.

The associated 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**

### **Rezoning Application**

#### Official Community Plan

The OCP designates the property within the Traditional Residential urban place designation. Within this designation multi-unit buildings up to three storeys, including attached dwellings, are envisioned along arterial and secondary arterial roads. Shelbourne Street is classified as a secondary arterial road. The envisioned floor space ratio is up to approximately 1:1 and the proposed floor space ratio is consistent with this at 0.99:1.

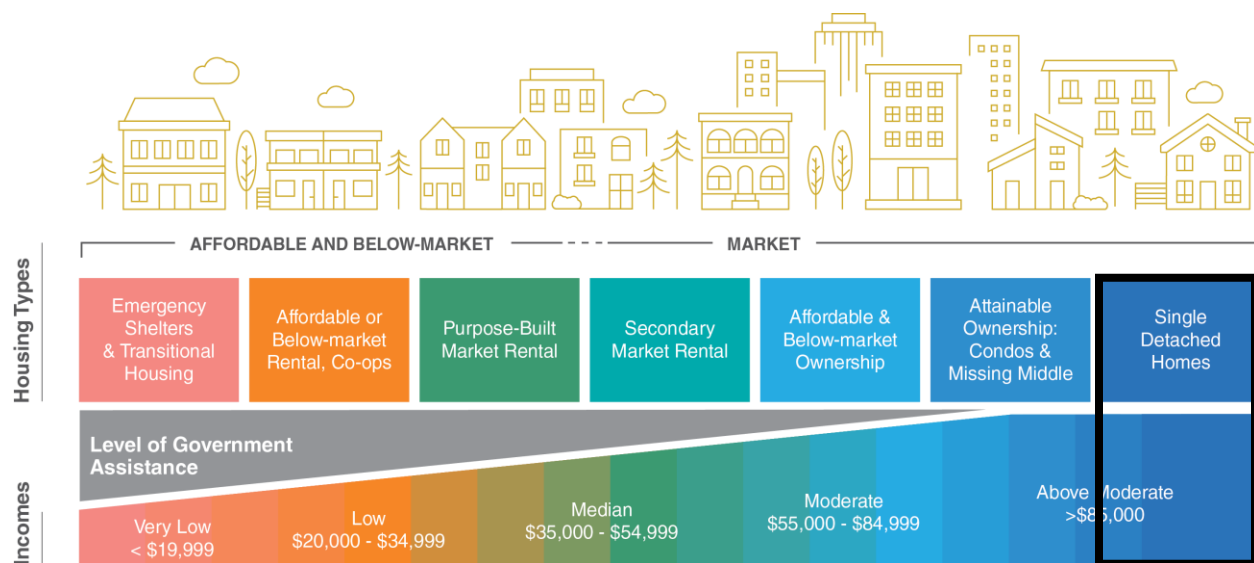
However, the proposal is inconsistent with General Development Guidance Objective 6.8, which encourages the logical assembly of development sites that enable the best realization of permitted development potential for the area. In this instance, the logical assembly of land would include either the three sites located to the north of the subject property (fronting Pearl Street) or additional properties to the south along Shelbourne Street, as this would form a more generous site and provide for more flexibility in site layout and orientation with more breathing room between adjacent residential uses. Land assembly would also serve to limit the number of driveway crossing and boulevard interruptions along the Shelbourne corridor. The applicant previously indicated to staff that the owners of the properties along Pearl Street were unwilling to sell at this time.

## Local Area Plans

The *Oaklands Neighbourhood Plan* Residential Development Potential map identifies this property for townhouses generally up to 18 units per acre with a 2.5 storey limit. This proposal is for 23.3 units per acre and three storeys, which is inconsistent with the plan. However, in cases where inconsistencies occur between Local Area Plans and the OCP, the OCP takes precedence, and as noted earlier, the proposal is consistent with the OCP as it pertains to height and densities. Finally, the plan notes that building setbacks for new townhouses be at least 10.7 metres from Shelbourne Street.

## Housing

The application, if approved, would add approximately seven new market residential units, which would increase the overall supply of housing in the area and contribute to the targets set out in the *Victoria Housing Strategy*.



**Figure 2. Housing Continuum**

### *Affordability Targets*

The application indicates that all seven dwelling units would be sold at market rates.

### *Housing Mix*

At present there is no policy that provides targets regarding housing mix and unit type is not regulated or secured. However, the OCP identifies a mix of units as an objective and identifies the need for a diverse range of housing units including family housing. As submitted, this application proposes seven three-bedroom townhouse units, and would likely be targeted towards families.

### *Existing Tenants*

The proposal is to demolish two existing vacant buildings. The applicant has confirmed that no tenants will be displaced as a result of the proposed development.

## Development Permit with Variance Application

### Official Community Plan: Design Guidelines

The *Official Community Plan* (OCP) identifies this property within Development Permit Area (DPA) 7A – Corridors, which envisions the revitalization of areas of commercial use along corridors through high-quality architecture, landscape and urban design to enhance their visual appearance, strengthen commercial viability and encourage pedestrian use. The *Multi-Unit Residential, Commercial and Industrial Guidelines* (2012), *Revitalization Guidelines for Corridors, Villages and Town Centres* (2017) and *Advisory Design Guidelines for Buildings, Signs and Awnings* (1981), are applicable to the Shelbourne corridor.

The Guidelines encourage new development to have a strong relationship to the street, with buildings oriented towards public streets and walkways. Proposals should provide an effective street edge while respecting the established streetscape rhythm. Facade designs, especially those facing streets, should be well-designed and articulated with human-scale architectural features that create visual interest for pedestrians. This may include incorporating architectural elements in the surrounding context, such as building articulation, rooflines, window placement, entryways, canopies and cornice lines.

Privacy is also a key consideration of the Guidelines which encourage buildings to be located to address privacy impacts on adjacent residential uses and private open spaces. To improve privacy between adjacent buildings, the Guidelines encourage the consideration of design solutions such as window size, window height, window placement and orientation, exterior landscaping, privacy screens or the use of frosted glazing on balconies. In terms of building scale, the Guidelines encourage larger and longer buildings to be visually broken into human-scaled proportions, with perceived building mass mitigated through architectural elements such as visually interesting rooflines or stepping back of upper floors.

With respect to parking, the Guidelines state that where possible, it should be located underground or to the rear of buildings to minimize the impact on streetscape appearance and pedestrian amenity path and continuity, and to maximize ground level space for landscaping. Pedestrian walkways that connect the primary entrance of multi-unit residential buildings with the public sidewalk should be a minimum of 2m wide. The current proposal reads as a vehicle dominated driveway which occupies approximately 30% of the overall lot frontage leaving little room for landscaping and a pedestrian pathway that is roughly half the width of what is recommended in the guidelines (1.02m). This is contrary to the guidelines which require the prioritization of safe movement of pedestrians above all other modes of transportation.

The proposal does not meet the *Advisory Design Guidelines for Buildings, Signs and Awnings* (2006) since the orientation of the proposed building does not represent a sensitive response to the surrounding context, which is primarily single-family dwellings oriented to the street. In addition, the proposed three storey building is continuous with no stepping down in height to the properties to the rear along Scott Street, which are limited to two stories under the Traditional Residential Urban Place Designation of the OCP.

Throughout the application review, staff have encouraged the applicant to reconsider the “galley-style” building orientation (residential units sited perpendicular to the street) which results in an inward-looking development with inadequate street presence, limited private amenity space, negative privacy impacts to adjacent residential uses and an overall dominance of vehicle circulation. Based on consultation with neighbours, the applicant has proceeded with the current layout and has attempted to meet the intent of the Guidelines by siting one residential entrance



off Shelbourne Street and by providing architectural detailing (shingled gables, fenestration and one entrance door) to address the street.

In summary, the proposed development is inconsistent with the objectives of the DPA, which seeks to integrate higher density residential buildings in a manner that is complementary to an established neighbourhood. The proposed building does not provide a strong street presence by virtue of the limited lot width and inward focussed orientation of the building. The development creates unacceptable privacy impacts along the side elevation facing the single-family dwelling to the south through the large expanse of habitable windows (living rooms and bedrooms). Finally, the proposal does not provide a sensitive transition in scale and height to the traditional residential character to the rear (west) and side (south), with no stepping down in height and limited setbacks.

### Variances

#### *Setbacks*

The proposal does not meet the required 10.7m setback from Shelbourne Street and has located the building 8.27m from the street (a variance of 2.43m). The 10.7m front yard setback is a requirement of the RK-3 Zone, Shelbourne Townhouse District, and the more recent RT Zone, Traditional Residential Attached Dwelling District (the intended destination zone), which are zones that have been utilized for a number of townhouse developments along Shelbourne Street. The front yard setback requirement of the zones was based on the findings of a City Council-endorsed study of the Shelbourne corridor, which recommended securing a widened right-of-way of 7.0m along the west side of Shelbourne Street. This statutory right-of-way (SRW) has been secured on a number of properties that have been redeveloped in close proximity to the subject site. Continuing to obtain the SRW along the west side of Shelbourne Street would advance a number of objectives included within the OCP related to active transportation and urban forestry. This space could be used in the future to implement the bicycle network and improve conditions for pedestrians, and will enable the retention of, and lessen the impacts to, the mature London Plane memorial street trees. In the event that the right-of-way improvements are achieved along the frontage then it would result in a 1.27m front yard, which is considered an inadequate separation space with adequate landscaping from a multi-use path. Staff therefore recommend Council do not support the proposed front yard setback variance and have included appropriate wording in the alternate recommendation for Council's consideration to address this aspect of the proposal.

#### *Number of Units*

The RT Zone only permits four units in an attached dwelling building, whereas the proposal is for seven units in one building. Staff are concerned that this variance exacerbates inconsistencies with the Guidelines that relate to breaking up the scale of longer buildings into human-scaled proportions. Attempts have been made to break up the long east-west oriented building mass into more human-scaled proportions, through projecting bays, dormers and architectural detailing. However, dividing the building into two separate elements would be a more comprehensive response to the guidelines as well as being more sensitive to the existing finer grain pattern of development within the immediate context. Staff therefore recommend Council do not support the proposed increase to the number of units in an attached building and have included appropriate wording in the alternate recommendation for Council's consideration to address this aspect of the proposal.

### Accessibility

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

## Sustainability

As indicated in the applicant's letter dated November 9, 2022, the following sustainability features are associated with this proposal:

- permeable pavers for the drive aisle
- building wired for electric charging and solar panels
- solar panels on the roof
- high efficiency ductless heat pumps
- increased airtightness.

The applicant has indicated a willingness to enter into a legal agreement to secure the features that go beyond the minimum requirements, which exist across a number of regulatory tools including the *Zoning Regulation Bylaw*, *BC Building Code* and *BC Energy Step Code*. The “above and beyond” features to be included in the proposed development include solar panels and building construction to the standard of Step 4 of the *BC Energy Step Code* (the City has currently adopted Step 3 for townhouse buildings). Appropriate wording is included in the alternate recommendation, should Council choose to advance the application.

## **Advisory Design Panel**

The Advisory Design Panel (ADP) reviewed this application on August 25, 2021. A copy of the minutes from this meeting are attached. At that meeting, the following motion was passed:

*That the Development Permit with Variances Application No. 000595 for 2848 and 2852 Shelbourne Street be approved with the following changes:*

- *Reconsider additional options on the east side elevation on Shelbourne Street to improve interface with the street*
- *Reconsideration of increasing setbacks to the west and south*
- *Reconsideration of the tree type on the south property line to favour an upright columnar type to provide more screening year round*
- *Consider finding space for visitor parking.*

In response to the ADP comments, the applicant made a number of changes:

- a visitor parking stall has been added
- the west side yard setback has increased from 2m to 4.01m and the south yard setback has increased from 2.9m to 4.01m
- seven columnar trees have been added along the south property line
- three trees have been added to the SRW area
- four small new beds for climbing vines have been added along the north property fence line
- the fencing along the drive aisle will have a pronounced presence with Boston ivy.

## **Tree Preservation Bylaw and Urban Forest Master Plan**

### *Tree Inventory*

The goals of the *Urban Forest Master Plan* (UFMP, 2013) include protecting, enhancing, and expanding Victoria's urban forest and optimizing community benefits from the urban forest in all neighborhoods. This application was received before July 1, 2021, but received after November

22, 2022; therefore, *Tree Preservation Bylaw* No. 05-106 (Consolidated on November 22, 2019) applies.

There are three trees protected by the *Tree Preservation Bylaw* on the subject property that would require removal to facilitate the construction of the proposed development. Six replacement trees are required in compensation for the proposed removal of the bylaw protected trees (2:1 ratio) and the proposed landscape plan shows the locations for 12 replacement trees. A municipal London plane and five private offsite trees must be protected during construction, using measures outlined on the attached arborist report. The report recommends all excavation within the critical root zones of the municipal London plane and offsite trees to be retained must be performed under the supervision of the project arborist.

#### Tree impact Summary Table

<b>Tree Status</b>	<b>Total # of Trees</b>	<b>To be REMOVED</b>	<b>To be PLANTED</b>	<b>NET CHANGE</b>
On-site trees, bylaw-protected	3	3	12	+9
On-site trees, not bylaw-protected	6	6	0	-6
Municipal trees	1	0	0	0
Neighbouring trees, bylaw-protected	5	0	0	0
Neighbouring trees, not bylaw-protected	0	0	0	0
<b>Total</b>	<b>15</b>	<b>9</b>	<b>12</b>	<b>+3</b>

#### **Bowker Creek Watershed Impacts**

The site is located within the Bowker Creek watershed, which is a land catchment where all stormwater flows to Bowker Creek. The Bowker Creek Blueprint – a 100-Year Action Plan to Restore the Bowker Creek Watershed, was endorsed by Council in 2011. In February 2021, Council directed staff to include consideration of impacts on the watershed as part of land use matters that occur within the Bowker Creek watershed.

The Blueprint identifies watershed management principles to be considered in development of land within the watershed, including:

- minimizing building footprints and reduce impervious surfaces, with a goal of 30% effective
- providing an impervious area
- directing runoff from hard surfaces to green infrastructure (e.g., rain gardens) to detain and infiltrate runoff to reduce flows and improve water quality entering the creek
- conserving green spaces, protect natural areas or replant with native species
- taking a green streets approach to infiltrate road runoff in boulevards.

The proposed development will increase site effective impervious area from approximately 30% to 50%. The following management watershed principles have been incorporated into the site design:

- use of native plant species and absorbent soils in landscaping
- use of permeable paving for driveways areas.

### Plan Revisions

A number of technical corrections are required to the plans in order to meet the requirements of the relevant bylaws. These are relatively minor in nature and will not materially affect the proposal being presented, should Council decide to advance the proposal with no further design changes. However, one of the requested corrections relates to the floor area calculation, and as currently presented the proposal has excluded the integral garages (164.74m<sup>2</sup>) from floor area calculations (the bylaw limits the exclusion for parking stalls at 18.6m<sup>2</sup> per stall for a total area of 130.2m<sup>2</sup>). Although this is a minor calculation adjustment, the correction will result in an increase in the FSR from 0.99:1 to 1:1, although no additional floor area is being proposed. Under the CALUC procedures for processing applications, this increase in density would trigger the requirement for a second community consultation phase. However, given the fact that the adjustment is of a technical nature and no additional floor area is being proposed, staff have contacted the Oaklands CALUC who have confirmed their willingness to waive the requirement for the second community consultation phase (consistent with the CALUC procedures). Appropriate wording is included in the recommendation for Council's consideration.

The proposal includes one visitor parking stall that currently does not meet the required 7m rear aisle space as noted in *Schedule C – Off Street Parking*. The applicant has indicated that this requirement can be met in future plan revisions and the data table will be updated accordingly, should Council decide to advance the application.

Given the staff recommendation to decline, the applicant expressed a desire to advance the application to Committee of the Whole before making these revisions. The staff recommendation includes details of the required plan revisions, should Council decide to advance the application.

### **CONCLUSIONS**

The proposed seven-unit townhouse is inconsistent with the relevant Guidelines, since the building orientation is inward looking and lacks a strong street presence along Shelbourne Street with limited street facing units. The building is positioned close to the side yard with limited setbacks, which amplifies the privacy and overlook impacts on the neighbour through the large expanse of habitable rooms on the south elevation. The variance to the number of units in an attached building large singular building footprint is not supportable since it does not respond to the existing finer grain place character and pattern of adjacent single-family within the immediate context and amplifies the privacy impacts to the neighbour. The drive aisle and the long expanse of integral garages with limited room for pedestrian movement creates a vehicle dominated environment. In addition, the front yard setback variance is not supportable since it would create a compromised building interface between the proposal and any future expanded right-of-way initiatives to support active transportation. Therefore, staff recommend Council consider declining this application.

## **ALTERNATE MOTIONS**

### **Option 1 (Revised Plans)**

#### Rezoning Application

That Council direct staff to bring Rezoning Application No. 00599 for 2910 Shelbourne Street back to Committee of the Whole once the matters related to the concurrent Development Permit with Variances Application No. 000595 have been addressed to the satisfaction of the Director of Sustainable Planning and Community Development.

#### Development Permit with Variance Application

That Council refer Development Permit with Variances Application No. 000595 for 2848 and 2852 Shelbourne Street back to staff to work with the applicant to address the following:

1. Revising the design to address overlook and privacy impacts for adjacent properties, through site planning, massing and orientation.
2. Reducing the number of units in an attached building to be consistent with the proposed RT Traditional Residential Attached Dwelling District Zone.
3. Increasing the east front yard setback to provide for an improved street relationship that meets the objectives for future Right-of-Way requirements.

That Council direct staff to bring the application back to Committee of the Whole once these issues and any other technical corrections have been addressed to the satisfaction of the Director of Sustainable Planning and Community Development.

### **Option 2 (Approve with Minor Corrections)**

#### Rezoning Application

1. That Council instruct the Director of Sustainable Planning and Community Development to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00768 for 2848 and 2852 Shelbourne Street.
2. That first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the applicant provided the following items:
  - a. corrections to the data table to accurately reflect the maximum exclusion for parking stalls and to ensure the visitor stall meets the minimum required drive aisle clearance in the *Zoning Regulation Bylaw* to the satisfaction of the Director of Planning and Sustainable Development;
  - b. an updated shadow study to accurately reflect the current design to the satisfaction of the Director of Planning and Sustainable Development;
  - c. revised plans to clearly label the solar panels and EV chargers as referenced in the applicant letter;
  - d. revised plans to include a sight triangle on each side of the driveway crossing that meets the requirements of Schedule C of the *Highway Access Bylaw*, to the satisfaction of the Director of Engineering and Public Works;

- e. a revised site plan to indicate that any signage proposed in the Statutory Right of Way (SRW) is temporary until such a time that the SRW will be utilized by the City, to the satisfaction of the Director of Engineering and Public Works;
  - f. an updated Arborist Report and Tree Management Plan to accurately reflect the proposed landscape plan to the satisfaction of the Director of Parks, Recreation and Facilities;
  - g. a revised site plan and landscape plan that comply with the *Tree Protection Bylaw* with respect to tree identification, critical root zones, soil volumes and tree replacement to the satisfaction of the Director of Parks, Recreation and Facilities;
  - h. a revised civil plan to show the extent of curb to be retained adjacent to the municipal street trees and accurate tree protection fencing to the satisfaction of the Director of Parks, Recreation and Facilities; and
  - i. revised plans to ensure the proposed guardrails meet the requirements of the BC Building Code (BCBC).
3. That subject to approval in principle at the public hearing, the applicant prepare and execute the following legal agreements, with form satisfactory to the City Solicitor, prior to final adoption of the bylaw:
- a. that a future strata cannot restrict long-term rental to non-owners, with contents satisfactory to the Director of Sustainable Planning and Community Development;
  - b. a Statutory Right of Way (SRW) of 7.0 metres width along the Shelbourne Street frontage, with contents satisfactory to the Director of Engineering and Public Works; and
  - c. to ensure the delivery and installation of green building features including solar panels and construction to the standard of Step 4 of the BC Energy Step Code, with contents satisfactory to the Director of Sustainable Planning and Community Development.
4. That adoption of the Zoning Bylaw Amendment will not take place until all of the required legal agreements that are registrable in the Land Title Office have been so registered to the satisfaction of the City Solicitor.
5. That the above Recommendations 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 with Variances Application

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. 00768, if it is approved, consider the following motion:

- 1. That subject to the adoption of Zoning Regulation Bylaw Amendment, Council authorize the issuance of Development Permit with Variance Application No.000595 for 2848 and 2852 Shelbourne Street, in accordance with:
  - a. Plans date stamped November 16, 2021.
  - b. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:

- i. increase the number of units in an attached dwelling from four to seven;
  - ii. reduce the setback to the west side of Shelbourne Street from 10.7m to 8.27m.
2. That the Development Permit, if issued, lapses in two years from the date of this resolution.

Respectfully submitted,

Charlotte Wain  
Senior Planner – Urban Design  
Development Services Division

Karen Hoesel, Director  
Sustainable Planning and Community  
Development Department

**Report accepted and recommended by the City Manager.**

#### **List of Attachments**

- Attachment A: Subject Map
- Attachment B: Plans date stamped November 16, 2021
- Attachment C: Shadow Study dated December 7, 2020
- Attachment D: Letter from applicant to Mayor and Council dated November 9, 2022
- Attachment E: Arborist Report dated November 16, 2021
- Attachment F: Staff report to Advisory Design Panel dated August 11, 2021
- Attachment G: Advisory Design Panel Minutes from the meeting of November 25, 2021
- Attachment H: Pre-Application Consultation Comments from Online Feedback
- Attachment I: Correspondence (Letters received from residents).