



Council Report

For the Meeting of January 26, 2023

To: Council **Date:** January 19, 2023

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

Subject: **Report of the Public Hearing on Bylaws No. 22-044 and 22-045 (Missing Middle Housing Initiative)**

EXECUTIVE SUMMARY

The purpose of this report is to provide Council a report on the Public Hearing on bylaw amendments proposed through the *Missing Middle Housing Initiative* (MMHI). This report is provided pursuant to section 470(2) of the *Local Government Act* – it provides the information on the Public Hearing so that Council members who were not present at the Public Hearing may vote on the adoption of the bylaws considered at the Public Hearing: *Official Community Plan Bylaw, 2021, Amendment Bylaw (No. 42) No. 22-044* and *Zoning Regulation Bylaw, Amendment Bylaw (No. 1278) No. 22-045*.

The MMHI is a policy project aimed at increasing the supply of missing middle housing: building forms that fall between traditional single-family homes and large condominium or apartment buildings. The OCP has included policy encouraging missing middle housing forms since adoption in 2012, and the City's strategic plan for 2018-2022 Council term provided more explicit direction to remove regulatory barriers to these housing forms. The MMHI resulted in policy and bylaw proposals presented to Council in late 2022. OCP and zoning amendment bylaws have been given two readings and a public hearing was held on August 4, September 1, and September 2, 2022. Council debated these bylaws on September 8, 2022 but had not voted on the third reading of these bylaws. A municipal election was held in October 2022 and Council composition has changed.

In accordance with the *Community Charter*, the provincial legislation governing municipalities, Council is a continuing body and is expressly allowed to complete any proceedings started but not completed before the change in its membership. The *Local Government Act*, legislation governing land-use regulation, provides that a Council member who was not present at the Public Hearing may still vote on the adoption of the bylaw if they receive a report of the public hearing.

This report does not contain any new information about MMHI and is intended solely to allow new Council members to become familiar with the information presented at the Public Hearing so that they can vote on the adoption of bylaws related to the MMHI. Given the volume of information for Council to review prior to considering this matter, the Manager of Executive Operations and City Communications sent an email to Council on December 14, 2022 (Attachment A) summarizing the Council process pertaining to the MMHI and providing all of the associated links so that Council would have sufficient time to view the materials and videos.

BACKGROUND

The *Missing Middle Housing Initiative* (MMHI) is aimed at increasing the supply of missing middle housing: building forms that fall between traditional single-family homes and large condominium or apartment buildings. MMHI forms include townhouses and houseplexes. The OCP has included policy encouraging missing middle housing forms since adoption in 2012, and the City's strategic plan for 2018-2022 Council term provided more explicit direction to remove regulatory barriers to these housing forms. The following subsections summarize of the evolution of the MMHI leading up to the public hearing:

November 21, 2019 – Project Initiation Report

This report to [Committee of the Whole on November 21, 2019](#) (item F.1) provided Council with a proposed approach to the MMHI and sought to confirm Council direction regarding the initiative.

Relevant motions passed by Council at the November 28, 2019 Council meeting:

That Council direct staff to:

1. *Establish zoning regulations, design guidelines and policy updates for missing middle housing forms city-wide;*
2. *Conduct engagement to provide opportunities for the community to help shape the missing middle regulatory framework;*
3. *Identify suitable locations for missing middle housing forms;*
4. *Report back with recommendations for City-initiated rezoning;*
5. *That a strong affordability lens be applied throughout this process for the creation and loss of both rental and strata units.*

July 29, 2021 – Phase 1 Summary and Emerging Directions

This report to [Committee of the Whole on July 29, 2021](#) (item F.1) summarized the results of phase one engagement, what was learned through technical analysis including the first phase of financial analysis, what directions were emerging for the menu of housing forms that could be enabled by zoning regulation changes, and key trade-offs proposed as the focal points for phase two community engagement.

Relevant motions passed by Council at the August 5, 2021 Council to Follow Committee of the Whole (COTW):

1. *That Council direct staff to:*

- a. *Undertake broad consultation regarding policy and regulatory and delegated process options for enabling missing middle housing while mitigating trade-offs consistent with the approaches outlined in this report.*
- b. *Prepare amendments to the Official Community Plan 2012 (OCP) to better support missing middle housing forms, including the following changes:*
 - i. *Expand Development Permit Area (DPA) 15F to all properties designated Traditional Residential and update the Design Guidelines for Attached Residential Development.*

- ii. *Increase the building height policies in the Traditional Residential designation from approximately two and two and a half storeys to approximately three storeys.*
- iii. *Support up to 1.1:1 Floor Space Ratio (FSR).*
- c. *Consider consultation under section 475(2)(b) of the Local Government Act and direct staff to refer the Official Community Plan Amendment Bylaw to the Capital Regional District Board, School District 61, Township of Esquimalt, District of Saanich, the District of Oak Bay, the Songhees Nation, the Esquimalt Nation, Island Health, the Province of BC, and the Federal Government.*
- d. *Consider consultation under Sections 475(1) and 475(2) of the Local Government Act and direct staff to undertake consultation on the proposed amendments to the Official Community Plan 2012 in accordance with the consultation plan in Attachment A.*
- e. *Report back to Council with details of the feedback received, estimation of resource impacts, and seek instructions for drafting bylaw amendments.*
- f. *Continue to focus on finding innovative approaches to create new affordable rental and cooperative and ownership housing units.*

May 5, 2022 – Phase 2 Summary and Next Steps

This report to [Committee of the Whole on May 5, 2022](#) (item F.3) provided a summary of the results of phase two engagement, how the results and further analysis informed recommended policy as well as regulatory changes, and sought Council direction to prepare bylaw amendments.

Relevant motions passed by Council at the May 19, 2022 Council to Follow COTW:

That Council direct staff to include in the next review of Development Cost Charges the potential to incentivize missing middle housing.

Relevant motions passed by Council at the June 9, 2022 Council to Follow COTW:

1. That Council direct staff to:

a. Prepare bylaws to amend:

- i. *The Zoning Regulation Bylaw to permit houseplexes, corner townhouses, heritage conserving infill, and accessory uses, as described within this report.*
- ii. *The Zoning Regulation Bylaw to establish land dedication requirements to support mobility and urban forest objectives, as incentivised by the density bonus structure of proposed zoning for missing middle housing forms.*
- iii. *The Land Use Procedures Bylaw to delegate development permit approvals to staff for cases where proposed missing middle housing is permitted in zoning, development applications are consistent with the Missing Middle Design Guidelines, and no zoning variances are requested. Also, to establish delegated development permit application fees of \$5,000 for projects with 6 or fewer dwelling units, and \$8,000 for projects with 7 to 12 units.*
- iv. *The Land Use Procedure Bylaw to provide for a refund of \$5,000 of development permit application fee related to a missing middle project where*

the applicant submits and complies with a tenant assistance plan consistent with the Tenant Assistance Policy.

- b. Prepare an Affordable Housing Standards Bylaw to establish income limits for households qualified to purchase a Below Market Home Ownership unit and a definition of affordable rental housing.*
 - c. Bring forward the above-mentioned bylaws and the OCP Amendment Bylaw for first and second reading.*
 - d. Monitor the impact of any missing middle zoning changes against the achievement of objectives summarized in the Missing Middle Housing Policy, Including options for prioritizing new co-operative housing, non-profit housing and public housing in the eligibility requirements for increased zoning entitlements arising from the proposed Missing Middle amendments, loss of units that fall into the definition of affordable in the City of Victoria, number of displacements and number of tenant assistance policies and report back to Council with any recommended process, regulatory, and policy improvements in two years or earlier if significant unintended effects become more immediately apparent or market conditions change significantly.*
 - e. Monitor resourcing implications and report back to Council on any further resourcing implications as part the 2023 budget planning process. Report back sooner with resource implications if a high volume of applications is received.*
 - f. Amend the Tenant Assistance Policy to provide for appropriate measures to assist tenants displaced as a result of a missing middle project.*
- 2. That Council consider approval of the Missing Middle Housing Policy and the updated versions of the Burnside Neighbourhood Plan, Fairfield Neighbourhood Plan, Gonzales Neighbourhood Plan, James Bay Neighbourhood Plan, Jubilee Neighbourhood Plan, Oaklands Neighbourhood Plan, Rockland Neighbourhood Plan, and Victoria West Neighbourhood Plan at the same Council meeting at which the above bylaw amendments are considered.*
 - 3. That upon approval of the Missing Middle Housing Policy and updated versions of neighbourhood plans, Council rescinds the previous versions of said neighbourhood plans.*
 - 4. Revise the fee to \$10,000 for buildings of 6 units and less and \$13,000 for buildings of 7 units or more.*
 - 5. That Council direct staff to hold an information session for the public on July 12th give bylaw readings on July 14th and schedule a Public Hearing for Aug 4th and that Council authorize an expenditure of up to \$25,000 if necessary, from the 2022 contingency budget.*

July 14, 2022 – Bylaw Introduction

This report to [Council on July 14, 2022](#) (item H.1) introduced the *Zoning Regulation Amendment Bylaw 22-045*, the *Land Use Procedures Amendment Bylaw 22-057*, the *Affordable Housing Standards Bylaw 22-056*, and the *Official Community Plan Amendment Bylaw 22-044*, along with the Missing Middle Design Guidelines and recommended updates to the *Tenant Assistance Policy*.

Relevant motions passed by Council at the July 14, 2022 Council to Follow COTW:

That the following bylaw be given first and second readings:

- 1. Zoning Regulation Bylaw, Amendment Bylaw (No. 1278) No. 22-045*
- 2. Official Community Plan Bylaw, 2012, Amendment Bylaw (No. 42) No. 22-044*

That Council direct staff to bring amendments to the July 14 evening Council meeting to limit the option of the cash in lieu contribution at section 2.3 schedule P to houseplexes.

Relevant motions passed by Council at the July 14, 2022 Council meeting:

That Bylaw No. 22-045, Zoning Regulation Bylaw, Amendment Bylaw (No. 1278) be amended in schedule P by:

- a. Deleting section 2.3.a.ii.A;*
- b. Renumbering clauses B through F in section 2.3.a.ii as clauses A through E;*
- c. Deleting the period at the end of section 2.3.a.iii and replacing it with “; or”;*
- d. Inserting, immediately after section 2.3.a.iii, the following as the new clause iv:*
“iv. For additional density pursuant to section 2.4.e, a monetary contribution equivalent to \$107.64 per square metre of bonus density utilized for the development adjusted pursuant to subsection b. with 70% of the contribution allocated to the Victoria Housing Reserve Fund and 30% of the contribution allocated to the Local Amenities Reserve Fund.”; and
- e. In section 2.3.b, deleting “a.ii.A” and replacing it with “a.iv”.*

That Council:

- 1. Consider the OCP Amendment Bylaw in conjunction with the City of Victoria 2018-2022 Financial Plan, the Capital Regional District Liquid Waste Management Plan, and the Capital Regional District Solid Waste Management Plan pursuant to Section 477(3)(a) of the Local Government Act and deem those plans to be consistent with the proposed bylaw.*
- 2. Refer the Zoning Regulation Amendment Bylaw and OCP Amendment Bylaw for consideration at a public hearing.*

That the following bylaw be given first, second, and third readings:

- 1. Land Use Procedures Bylaw, Amendment Bylaw (No. 17) No. 22-057*
- 2. Affordable Housing Standards Bylaw No. 22-056*

That Council:

- 1. At the same Council meeting at which the associated OCP Amendment Bylaw and Zoning Regulation Amendment Bylaw are considered for adoption, and after third reading but before fourth reading of said Bylaws, consider approval by resolution of:*
 - a. the Missing Middle Design Guidelines (2022), and*
 - b. the Missing Middle Housing Policy (2022), as well as the updated Burnside Neighbourhood Plan (2022), Fairfield Neighbourhood Plan (2022), Gonzales Neighbourhood Plan (2022), James Bay Neighbourhood Plan (2022), Jubilee Neighbourhood Plan (2022), Oaklands Neighbourhood Plan (2022), Rockland Neighbourhood Plan (2022), and the Victoria West Neighbourhood Plan (2022).*
 - c. the updated Tenant Assistance Policy (2022).*
- 2. Rescind the previous versions of the above-mentioned neighbourhood plans following approval of the respective 2022 versions.*

3. *Rescind the previous version of the Tenant Assistance Policy following approval of the respective 2022 version.*

Relevant motions passed by Council at the August 4, 2022 Council to Follow COTW:

That Council direct staff to report back as part of the two year review of the Missing Middle initiative if it proceeds on options for limiting the entitlement to build new single family homes on Missing Middle zoned parcels, including the potential for regulating maximum unit size and that Council direct staff to include an exploration of applying tenant assistant policy to single family homes.

Public Hearing and Next Steps

The MMHI involves a number of policy and bylaw proposals:

- a. OCP amendment bylaw, including new design guidelines specifically for missing middle built forms (Bylaw No. 22-044);
- b. Zoning amendment bylaw (Bylaw No. 22-045);
- c. Amendments to the *Land Use Procedure Bylaw*;
- d. Adoption of a new *Affordable Housing Standards Bylaw*; and
- e. Changes to the *Tenant Assistance Policy*.

The OCP and zoning amendment bylaws have been given two readings and a public hearing was held on August 4, September 1, and September 2, 2022. Council debated these bylaws on September 8, 2022 but had not voted on the third reading of these bylaws. Instead, Council referred the MMHI to the Committee of the Whole meeting in the last quarter of 2022 to consider the MMHI in light of anticipated provincial legislation:

Refer this matter to a Committee of the Whole meeting in the last quarter of 2022 to consider in the context of new provincial legislation with respect to increasing housing supply that has been signaled by the Province and other considerations of concern to the new Council.

The other two bylaws received three readings and, together with the changes to the policy, are ready for adoption should Council adopt the OCP and zoning amendment bylaws.

A municipal election was held in October 2022 and Council composition has changed as a result. However, because Council is a continuing body, the process initiated before the election continues and the MMHI project continues as an ongoing City initiative. In particular, the various bylaws that had been given introductory reading prior to the election remain “in progress”. This is addressed in the *Community Charter*:

Despite a change in its membership, the council of a municipality is a continuing body and may complete any proceedings started but not completed before the change.¹

Because the OCP and zoning amendment bylaws require a public hearing and that hearing was held before the election, there is an additional step required, given the change in composition of Council following the election, before they could be adopted. The *Local Government Act* expressly allows a Council member who was not present at the Public Hearing to still vote on the bylaw,

¹ *Community Charter*, S.B.C. 2003, c. 26, section 114(2)

provided they received a report of the public hearing from an officer or employee of the City:

- (2) A member of a council or board who
 - (a) is entitled to vote on a bylaw that was the subject of a public hearing, and
 - (b) was not present at the public hearingmay vote on the adoption of the bylaw if an oral or written report of the public hearing has been given to the member in accordance with subsection (3).
- (3) The report referred to in subsection (2) must be given to the member by
 - (a) an officer or employee of the local government, or
 - (b) if applicable, the delegate who conducted the public hearing.²

This report does not contain any new information about MMHI and is intended solely to allow new Council members to become familiar with the information presented at the Public Hearing so that they can vote on the adoption of bylaws related to MMHI.

ISSUES AND ANALYSIS

The following is a report on the Public Hearing related to Bylaws No. 22-044 and 22-045 provided to Council in accordance with section 470 of the *Local Government Act*. Given the volume of information for Council to review prior to considering this matter, the Manager of Executive Operations and City Communications sent an email to Council on December 14, 2022 (Attachment A) summarizing the Council process pertaining to the MMHI and providing all of the associated links so that Council would have sufficient time to view the materials and videos.

The Public Hearing on Bylaws No. 22-044 and 22-045 began on August 4, resumed on September 1, and closed on September 2, 2022. Amongst those who spoke or provided video submissions that were summarized in respective meeting minutes, 76 spoke in support, while 73 expressed concern or opposition. However, the Public Hearing is only understood by thoroughly reviewing the materials and videos linked to in the following four sections.

1. August 4, 2022 – Public Hearing Began

The Public Hearing began at the [Council Meeting of August 4, 2022](#). The relevant portion of the recording begins at minute 7:34. The [meeting minutes](#) include a summary, beginning on page 2, of comments made by speakers at the Public Hearing.

As part of this meeting, Council received a presentation from staff summarizing the matters under consideration for the Public Hearing (see recording at min 10:10), as well as a [report](#) introducing the recommended updates to the *Tenant Assistance Policy* to align with the proposed partial development permit fee refund where tenant assistance is provided. This report also recommended the *Missing Middle Housing Policy* and associated updates to neighbourhood plans be considered at a separate meeting of Council following the conclusion of Council's consideration of the bylaw amendments.

At the end of the meeting, Council adjourned the Public Hearing to September 1, 2022 to hear more speakers.

Item F.1 on the August 4, 2022 Council agenda (linked above) includes the following attachments:

1. [July 14, 2022 CTFCOTW Report_Missing Middle Housing Initiative.pdf](#)

² *Local Government Act*, R.S.B.C. 2015, c. 1, section 470

2. [May 5, 2022 COTW Report_Missing Middle Housing Initiative.pdf](#)
3. [Report_Missing Middle Housing Initiative Bylaw Amendments and Policy Updates.pdf](#)
4. [Attachment A_Updated Tenant Assistance Policy.pdf](#)
5. [Attachment B_Blackline Official Community Plan.pdf](#)
6. [Correspondence_Letter from the Rockland Neighbourhood Association_Missing Middle Housing Initiative.pdf](#)
7. [Correspondence_Missing Middle Housing Initiative.pdf](#)
8. [Addendum_Additional Correspondence_Missing Middle Housing Initiative.pdf](#)
9. [Addendum_Letter from the James Bay Neighbourhood Association.pdf](#)
10. [Addendum_Additional Correspondence 2_Missing Middle Housing Initiative.pdf](#)
11. [Addendum_Additional Correspondence 3_Missing Middle Housing Initiative.pdf](#)
12. [Presentation_Missing Middle Housing.pdf](#)

Item F.1.a includes the following attachments:

1. [Bylaw No. 22-044.pdf](#)
2. [Bylaw No. 22-045.pdf](#)
3. [Bylaw No. 22-057.pdf](#)
4. [Bylaw No. 22-056.pdf](#)
5. [Missing Middle Design Guidelines \(2022\).pdf](#)
6. [Tenant Assistance Policy \(July 2022\).pdf](#)

2. September 1, 2022 – Public Hearing Resumed

Council resumed the Public Hearing at a [Special meeting of Council on September 1, 2022](#). After exhausting the speakers list, Council set aside time at the next meeting to view all pre-recorded video submissions before beginning deliberations on the bylaws. This was the only item on the agenda, so the entire recording is pertinent. The [meeting minutes](#) include a summary of comments made by speakers at the Public Hearing.

Additional to the materials included as part of August 4 agenda, the following new attachments were added to this agenda:

1. [Additional Correspondence 4_Missing Middle Housing Initiative.pdf](#)
2. [Addendum_Additional Correspondence 5_Missing Middle Housing Initiative.pdf](#)
3. [Addendum_Letter from the Fernwood Community Association_Missing Middle Housing Initiative.pdf](#)
4. [Addendum_Additional Correspondence 6_Missing Middle Housing Initiative.pdf](#)
5. [Addendum_Additional Correspondence 7_Missing Middle Housing Initiative.pdf](#)

3. September 2, 2022 – Public Hearing Closed and Council Deliberations Began

At the [Special meeting of Council on September 2, 2022](#) Council viewed all pre-recorded video submissions, closed the Public Hearing, asked questions of staff, began deliberations, and resolved to adjourn and resume deliberations on September 8, 2022. This was the only item on the agenda

so the entire recording is pertinent. The [meeting minutes](#) include a summary of comments made by video submissions to the Public Hearing. There were no new attachments added to this agenda.

4. September 8, 2022 – Council Deliberations Continued

At the [Council to Follow COTW meeting on September 8, 2022](#) (item E.1), Council resumed deliberations, asked clarifying questions of staff, and passed the motions copied below. The relevant portion of the recording begins at hour 1:08:15. There were no new attachments added to this agenda.

At this meeting, Council passed two motions arising, which related to heritage infill and the timeline for post-adoption briefing and review; two amendments to the still pending main motion of giving third reading to the zoning and OCP related bylaws (seen on page 12 of the [meeting minutes](#)); and ultimately passed the referral motion at the end of the list below:

That in the case of applications for sites with heritage value, but without heritage protections, staff be directed to work with applicants to first consider house conversion, or heritage infill, prior to considering a Missing Middle project that would require demolition.

That Council direct staff to come back to Council with a short briefing after 6 months and conduct a review after 18 months rather than two years, including a new independent financial analysis and consideration of adding more affordability requirements.

That Schedule 1 of Zoning Regulation Bylaw, Amendment Bylaw (No. 1278) No. 22-045 section 2.3 (a) (iv) be amended by striking and replacing the following: For additional density pursuant to section 2.4.e, a monetary contribution equivalent to \$215.18 per square metre of bonus density utilized for the development, adjusted pursuant to subsection b. with 70% of the contribution allocated to the Victoria Housing Reserve Fund and 30% of the contribution allocated to the Local Amenities Reserve Fund.

That Schedule 1 of Bylaw No. 22-045 (Zoning Regulation Bylaw, Amendment Bylaw (No. 1278)), Section 3.2 (Height) be amended by changing the height specified in sub-section (a) to 8.5 m and the height specified in sub-section (b) to 9.5 m.

Refer this matter to a Committee of the Whole meeting in the last quarter of 2022 to consider in the context of new provincial legislation with respect to increasing housing supply that has been signaled by the Province and other considerations of concern to the new Council.

CONCLUSION

The zoning amendment and Official Community Plan amendment bylaws associated with the MMHI have gone through a public hearing and have not yet been voted on by Council. This report, provided pursuant to section 470(2) of the *Local Government Act*, provides the information necessary so that Council members who were not present at the Public Hearing may vote on the adoption of the bylaws.

Respectfully submitted,

Malcolm MacLean
Senior Planner
Community Planning Division

Karen Hoese, Director
Sustainable Planning and
Community Development Department

Report accepted and recommended by the City Manager

List of Attachments

- Attachment A – Email to Council of December 14, 2022 from Manager of Executive Operations and City Communications