



Committee of the Whole Report

For the Meeting of January 26, 2023

To: Committee of the Whole **Date:** January 12, 2023

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

Subject: Update on Rezoning Application No. 00678 and Heritage Alteration Permit with Variance Application No. 00012 for 601 Su'it Street

RECOMMENDATION

That Council decline Rezoning Application No. 00678 and Heritage Alteration Permit with Variance Application No. 00012 for the property located at 601 Su'it Street.

LEGISLATIVE AUTHORITY

This report discusses a Rezoning Application and a concurrent Heritage Alteration Permit with Variances (HAV) Application. Relevant rezoning considerations include the proposal to increase the density and add a mix of residential uses as new uses. The relevant HAV considerations relate to the application's consistency with the design guidelines, impact of the variances and alterations to the heritage-designated property.

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 Sections 617 and 618 of the *Local Government Act*, Council may issue a Heritage Alteration Permit which may be subject to terms consistent with the purpose of the heritage protection of the property, including: (i) conditions respecting the sequencing and timing of construction, (ii) conditions respecting the character of the alteration or action to be authorized, including landscaping and the siting, form, exterior design and finish of buildings and structures and (iii) security. Council may refuse to issue a Heritage Alteration Permit for an action that, in the opinion of Council, would not be consistent with the purpose of the heritage protection of the property.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with updated information, analysis and recommendations for a Rezoning Application and Heritage Alteration Permit with Variances Application for the property located at 601 Su'it Street.

The proposal is to rezone an existing heritage-designated property from the R1-B Zone, Single Family Dwelling District, to a site-specific zone to allow for additional dwellings on the property. In addition to multiple units within the heritage house, a new 1.5 storey two-unit duplex is proposed for the northeast corner of the property, adjacent to the rear lane, and one additional dwelling unit is proposed through an alteration of an existing accessory building on the southeast corner of the property, also adjacent to the rear lane.

There is a concurrent Heritage Alteration Permit with Variances pertaining to the proposed alterations to the existing buildings and the heritage-designated grounds, as well as the form, character, exterior finishes, landscaping and associated variances related to siting, setbacks, number of buildings, unit size and parking.

On May 14, 2020, Council passed a motion (attached) referring these applications back to staff to work with the applicant to address concerns raised by Council, staff and the Fairfield Gonzales Community Association Land Use Committee (CALUC). The revised plans are the subject of this report. The original Committee of the Whole (COTW) report is also attached.

The following points were considered in assessing the Rezoning Application:

- The proposal has changed very little from what was presented at COTW on May 14, 2020, and many of the comments and concerns raised by Council, staff and the CALUC have not been addressed
- While the proposal would add to the diversity of housing within the neighbourhood, the applicant has not offered any additional commitment to heritage conservation, such as a conservation plan or maintenance agreement, that would justify consideration of additional density, an increased number of dwellings within a house conversion or laneway housing infill in accordance with the *Official Community Plan, 2012 (OCP)* and the *Fairfield Neighbourhood Plan*
- The building currently contains seven dwelling units that were achieved with alterations to the interior that were completed without permits. Under the current House Conversion Regulations of the *Zoning Regulation Bylaw* the house is eligible for five units based on the 350m² of existing floor area. The building would be eligible for six units if the rental tenure was secured in perpetuity; however, the application is not offering to secure rental housing through a legal agreement
- When assessed against the *Garden Suite Policy*, the proposal is inconsistent with the policy direction that envisions garden suites as single dwelling units located on lots where the principal use is a single-family dwelling
- Several large Garry oak trees, which are protected under the *Tree Protection Bylaw* and the property's heritage designation bylaw, as well as the natural rocky topography of the site, may be impacted by site servicing requirements associated with the proposal.

Because of several inconsistencies with City policies, the staff recommendation is to decline the proposal; however, an alternate motion is provided at the end of this report should Council wish

to consider approving the application.

BACKGROUND

Description of Proposal

This application is to rezone an existing heritage-designated property from the R1-B Zone, Single Family Dwelling District, to a site-specific zone to allow for additional dwellings on the property. In addition to seven dwelling units within the heritage house, a new 1.5 storey two-unit duplex is proposed for the northeast corner of the property, adjacent to the rear lane, and one additional dwelling unit is proposed through an alteration of an existing building on the southeast corner of the property, also adjacent to the rear lane. There is a concurrent Heritage Alteration Permit with Variances pertaining to the proposed alterations to the existing buildings and the heritage-designated grounds, as well as the form, character, exterior finishes, landscaping and associated variances related to siting, setbacks, number of buildings, unit size and parking.

On May 14, 2020, Council passed a motion (attached) referring these applications back to staff to work with the applicant to address concerns raised by Council, staff and the Fairfield Gonzales Community Association Land Use Committee (CALUC). The revised plans are the subject of this report. The original Committee of the Whole (COTW) report is also attached.

UPDATE

Revisions to the plans have focused on minor changes to the laneway duplex (Building B) and site planning to improve circulation between buildings. The revised application includes the following, which are reviewed in more detail below:

- A heritage-designated house with seven units – there are no proposed changes to the number of units from the previous proposal, but the rear deck is proposed for removal to provide adequate separation distance from the new laneway duplex
- A small laneway up-down duplex (Building B) – revisions have been made to Building B resulting in fewer variances and an improved interface with the lane
- Alteration of an existing accessory building (Building A) on the southeast corner of the property, also adjacent to the rear lane, to create an additional dwelling unit – no revisions have been made from the previous proposal
- A parking variance to reduce the parking from 10 stalls to two stalls and associated transportation demand management measures.

Housing

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

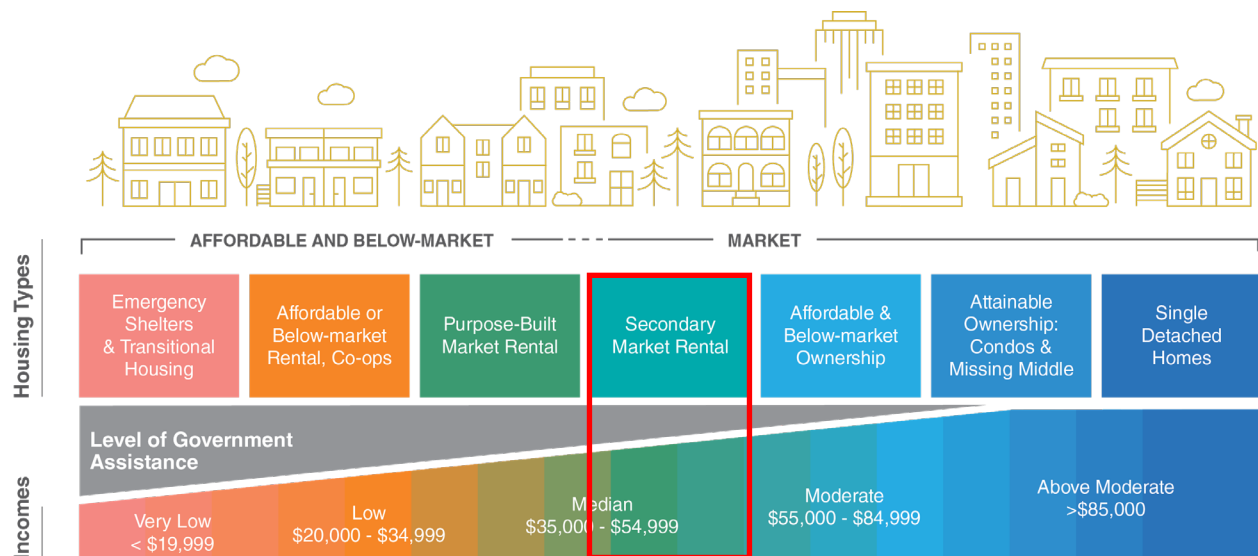


Figure 1. Housing Continuum

Affordability Targets

The application could provide up to ten units of secondary market rental; however, as noted below the applicant is not willing to secure the tenure of the units as rental.

Housing Mix

At present, there is no policy that provides targets regarding housing mix and unit type is not mandated by the City. 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 to add three one-bedroom dwellings to the property which currently has six studio units and one one-bedroom unit within the existing house. Three of the existing units were created without permits. Furthermore, two of the units with floor areas of 20.9m² (225 sq. ft.) and 23.8m² (256 sq. ft.) do not meet the *Zoning Regulation Bylaw* minimum unit size of 33m² (355 sq. ft.).

Security of Tenure

The applicant is not offering to secure the dwelling units as rental housing with a housing agreement, nor are they offering to have the property added to Schedule N – Residential Rental Tenure, of the *Zoning Regulation Bylaw*. However, based on the number of dwelling units, future strata titling of the buildings would require Council approval in accordance with the *Residential Strata Titling Policy*.

Data Table

The following data table compares the proposal with the existing R1-B Zone, Single Family Dwelling District, Schedule G – House Conversion Regulations and Schedule M – Garden Suites. The relevant OCP and Fairfield Plan policies are also included for reference. An asterisk is used to identify where the proposal is less stringent than the existing zoning regulations. A double asterisk indicates an existing non-conforming condition. Bold text indicates a change from the previous proposal.

Zoning Criteria - All Buildings	Current Proposal	Previous Proposal	R1-B Zone	Relevant Policy & Notes
Site area (m ²) – minimum	1523.00	1523.00	460.00	-
Density (Floor Space Ratio) – maximum	0.30:1	0.28:1	n/a	Up to 1:1 (OCP) 0.5:1 – 0.85:1 (Fairfield Plan)
Total floor area (m ²) – maximum	456.01* (total)	424* (total)	300	-
Site coverage (%) – maximum	24.00	24.00	40.00	-
Vehicle parking – minimum	2*	3*	10	-
Visitor vehicle parking included in the overall units - minimum	0*	1	1	
Bicycle parking stalls – minimum				Note: the six proposed bike lockers do not meet the zoning requirements for long-term bicycle parking -
Long Term	0	0	0	
Short Term	6	4	0	

Zoning Criteria – Main Building (House Conversion)	Current Proposal	Previous Proposal	R1-B Zone & Schedule G – House Conversion Regulations	Relevant Policy & Notes
Total floor area (m ²) – maximum	350**	325**	300	Note: No changes proposed to the house. Change in floor area is due to corrected calculation
Number of dwelling units based on floor area	7*	7*	5	
Height (m) – maximum	Existing	Existing	7.6	
Storeys – maximum	2	2	2	
Setbacks				
Front (Su'it Street)	25.90	25.90	7.5	
Rear (south)	0.1**	0.1**	12.49 (25% of lot depth)	

Zoning Criteria – Main Building (House Conversion)	Current Proposal	Previous Proposal	R1-B Zone & Schedule G – House Conversion Regulations	Relevant Policy & Notes
Side (north)	6.1	6.1	3.5	
Side (south)	5.8	5.8	3.5	

Zoning Criteria - Building A (Existing Accessory Building)	Current Proposal	Previous Proposal	Schedule M – Garden Suites	Relevant Policy & Notes
Principle Building Use	Multiple Dwelling*	Multiple Dwelling*	Single Family Dwelling	
Location	Side*	Side*	Rear	
Combined Floor Area (m ²)	27	27	56	
Height	2.9	2.9	5.5	
Storeys	1	1	1.5	
Rear Setback	0.6	0.6	0.6	
Side Setback	0.46** 0.56* (addition)	0.46** 0.57* (addition)	0.6	Note: change due to plan correction
Separation space	3.51	3.51	2.4	
Rear yard site coverage	n/a	n/a	25	

Zoning Criteria – Building B (New Duplex Laneway Building)	Current Proposal	Previous Proposal	Schedule M – Garden Suites	Relevant Policy & Notes
Principle Building Use	Multiple Dwelling*	Multiple Dwelling*	Single Family dwelling	
Location	Side*	Side*	Rear	
Combined Floor Area (m ²)	79.01*	72*	56	
Height (m)	5.38	5.06	4.2	
Storeys	1.5	2*	1.5	
Rear Setback (m)	0.6	0.6	0.6	
Side Setback (m)	0.6	0.6	0.6	
Separation space (m)	2.42	1.8*	2.4	
Roof deck	No	Yes*	No	

Heritage Considerations

The design of the new laneway housing and modifications to the existing accessory building are complementary to the main house and meet the intent of policies for buildings and sites under Section 8 of the *Official Community Plan* that require new infill buildings to respond to their context through sensitive design. Both the proposed and existing buildings feature pitched roofs and shingle style cladding similar to the main house. Windows include wood trim surrounds, which is another feature of the main house. Granting variances to enable heritage conservation is consistent with policy 8.52, however the applicant is not proposing any enhancements to the designated house or further commitment to heritage conservation as part of this application. In fact, as discussed below, a portion of the rear deck is proposed for demolition to help with site congestion caused by the addition of the new laneway duplex.

The *Fairfield Neighbourhood Plan* (2019) supports ground-oriented housing at this location and supports alternate forms of housing and additional density if owners offer additional protection and rehabilitation of houses with heritage merit as part of the application. The subject property and existing house are already heritage-designated and, despite staff's recommendations, the applicant has not prepared a conservation plan nor offered any additional commitment to heritage conservation that would justify consideration of additional density or infill laneway housing.

House Conversion Regulations

The House Conversion Regulations under Schedule G of the *Zoning Regulation Bylaw* have been updated since this proposal was last presented to Committee of the Whole. The previous House Conversion Regulations would only permit three self-contained units based on the 350m² of floor area in the building. The new regulations reduce the floor area per unit requirements for buildings that are subject to heritage designation. Based on the new regulations, the house could be converted to five self-contained units or six units if the rental tenure was secured in perpetuity in addition to the heritage designation; however, the application is not offering to secure rental housing through a legal agreement. Therefore, the proposed seven units are still inconsistent with the House Conversion Regulations. Furthermore, two of the units with floor areas of 20.9m² (225 sq. ft.) and 23.8m² (256 sq. ft.) do not meet the House Conversion Regulations minimum unit size of 33m² (355 sq. ft.). A variance on minimum unit size has been added to the alternate motion should Council choose to advance the application.

Regulatory Considerations

The house was originally converted to ten light house keeping units. In 1982, it was converted to four self-contained units and five light house keeping units. At some point after that, it was converted without permits to its current configuration of seven self-contained units. Depending on the outcome of this application, the applicant will be required to obtain the appropriate permits to authorize the work that was done or to remove the illegal construction. The work may result in tenant displacement; therefore, should Council choose to advance the application to a public hearing, a requirement for a *Tenant Assistance Plan* has been added to the alternate motion for Rezoning Application No. 00678.

Laneway Duplex (Building B)

The unit entrances have been changed to address the rear lane, which would enhance the pedestrian environment of the lane. In addition, the projecting roof deck on the west side of the building has been replaced with a Juliet balcony to reduce the potential privacy impact on the

neighbouring property. The siting of the building has also shifted slightly to provide the required 0.6m side yard setback from the north property line. However, to provide the minimum 2.4m clearance between buildings, the applicant proposes to demolish a portion of the rear deck on the heritage-designated building. This change to the heritage-designated building has not been referred to the Heritage Advisory Panel as the staff recommendation continues to be to decline this application because of the inconsistencies with approved City policy. Should Council wish to advance the proposal for consideration at a public hearing, it is recommended that this referral to the Heritage Advisory Panel occur. The necessary language has been included in the alternate motion.

Finally, while the revisions to this duplex have reduced the number of variances associated with this proposal, the floor area of the duplex has increased from 72m² to 79.64m² which is inconsistent with the *Garden Suite Policy* and Zoning Regulations which limits floor area to 56m².

Garden Suite Policy and Guidelines

The revised proposal is still considered inconsistent with the *Garden Suite Policy and Guidelines* (2017). Under the Policy, only properties with a single-family detached dwelling and no existing secondary suites are eligible for a garden suite. The subject property has seven existing rental units and is not eligible for one or more garden suites. Furthermore, a garden suite is envisioned as a small, ground-oriented, unit that is ancillary to a single-family dwelling. The Policy does not contemplate more than one garden suite on a lot nor a two-unit garden suite. Therefore, the proposed Buildings A and B are not considered supportable when assessed against the *Garden Suite Policy and Guidelines*.

Parking

The proposed site plan shows two parking stalls with direct access to the laneway. The requested parking variance would reduce the vehicle parking from ten stalls to two stalls. Several transportation demand management (TDM) measures are proposed to help off-set the parking demand, however, the applicant has not offered to secure the TDM measures with a covenant on title, therefore there is no guarantee that these measures would be implemented or maintained. The potential measures noted by the applicant have been revised to include:

- one electric vehicle charging station (not shown on the plans)
- an increase in the number of modo memberships from two to five along with a \$50 credit per membership
- individual bicycle lockers located under the back deck of the heritage building for six of the ten dwelling units
- six visitor bicycle parking stalls.

These TDM measures are not considered sufficient to offset the anticipated parking demand associated with this proposal. Therefore, support for the parking variance is not recommended.

Tree Preservation Bylaw and Urban Forest Master Plan

There are currently no trees proposed for removal or to be planted. However, the applicant has not provided a site servicing plan as part of the revised application; therefore, staff are still concerned that the extension of new services from Su'it Street to the proposed development at the rear of the lot could negatively impact two large, bylaw-protected Garry oaks in the front yard of the subject lot, as well as three municipal trees in the boulevard along Su'it Street. Should Council choose to advance the application, staff recommend the applicant provide an

arborist report to demonstrate how services will be installed and trees retained to the satisfaction of staff. The project arborist will need to review the scope of the project and provide mitigation measures to reduce potential impacts to trees and ensure they are retained in good health over the long-term. The alternate motion includes the appropriate language for Council's consideration.

CONCLUSIONS

While the revised proposal has eliminated some of the minor variances associated with the previous submission, the applicant has not proposed any additional public benefit such as a further commitment to heritage revitalization or secure rental housing; in fact, the proposal would result in partial demolition of the heritage building to accommodate the proposed laneway duplex. Furthermore, the proposal is inconsistent with the *Garden Suite Policy*, the updated House Conversion Regulations, does not secure TDM measures, and could potentially negatively impact the bylaw protected trees and heritage landscape of the site through servicing requirements. Therefore, the proposal is considered inconsistent with the *Official Community Plan* and *Fairfield Neighbourhood Plan*. Due to the number of inconsistencies with City policies, staff recommend that the application be declined. However, an alternate motion is provided below should Council wish to consider approving the application.

ALTERNATE MOTION

Rezoning Application No. 00678

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 the staff report dated November 4, 2022 for 601 Su'it 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 following conditions are met:
 - a. Referral to the Heritage Advisory Panel for review of the proposed partial demolition of the existing heritage-designated building;
 - b. Preparation of an arborist report to demonstrate how services will be installed and trees retained, to the satisfaction of the Director of Parks, Recreation and Facilities. If the report concludes that municipal or bylaw-protected trees may be impacted or proposed for removal, staff would report back to Committee of the Whole;
 - c. Completion of a Building Code compliance assessment of the existing building and preparation of a tenant assistance plan, consistent with the *Tenant Assistance Policy*, to the satisfaction of the Director of Sustainable Planning and Community Development.
3. That subject to approval in principle at the Public Hearing, the applicant prepare and execute the following legal agreement, with contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor prior to adoption of the bylaw:
 - a. 0.56m wide right of way along the rear lane for highway purposes, in accordance with the following requirements:
 - i. The owner may occupy and maintain the existing building within the right of way area until it is substantially destroyed or damaged.

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.

Heritage Alteration Permit with Variances Application No. 00012

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. 00678, if it is approved, consider the following motion:

“1. That Council authorize the issuance of Heritage Alteration Permit with Variances Application No. 00012 for 601 Su’it Street, in accordance with plans submitted to the Sustainable Planning and Community Development Department and date stamped May 2, 2022, subject to:

a. Proposed development meeting all City zoning bylaw requirements, except for the following variances:

- i. reduce the vehicle parking requirement from 10 stalls to two stalls and the visitor parking requirement from 1 stall to zero stalls;
- ii. permit laneway housing in the side yards rather than the rear yard of the main building;
- iii. increase the maximum building height for Building B from 4.2m to 5.38m
- iv. increase the maximum floor area for Building B from 56m² to 79.01m²
- v. reduce the side yard setback for a new addition to Building A from 0.6 metres to 0.56 metres;
- vi. reduce the minimum unit size for a dwelling unit created as a result of house conversion from 33m² to 20.9m²;
- vii. increase the number of self-contained dwelling units allowed as a result of house conversion from five to seven;
- viii. increase the number of buildings permitted on a lot from one to three.

b. Final plans to be generally in accordance with the plans identified above, to the satisfaction of the Assistant Director, Development Services Division, Sustainable Planning and Community Development.

2. That the Heritage Alteration Permit with Variances, if issued, lapses two years from the date of this resolution.”

Respectfully submitted,

Alec Johnston
Manager of Development Processes

Karen Hoes, Director
Sustainable Planning and Community
Development Department

Kristal Stevenot
Senior Heritage Planner
Development Services Division

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped May 2, 2022
- Attachment D: Letter from applicant to Mayor and Council dated October 20, 2022
- Attachment E: Staff report and attachments presented at the May 7, 2020 Committee of the Whole meeting
- Attachment F: May 7, 2020 Committee of the Whole meeting minutes
- Attachment G: May 14, 2020 Council meeting minutes.