



## Committee of the Whole Report For the Meeting of April 20, 2023

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**To:** Committee of the Whole **Date:** April 6, 2023

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

**Subject:** Update Report for Rezoning Application No. 00820 and Development Permit with Variances Application No. 00207 for 722 and 726 Discovery Street

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### RECOMMENDATION (updates in bold text)

#### Rezoning Application

1. That Council refer Zoning Regulation Bylaw, Amendment Bylaw (No. 1294) No. 23-018 (“Zoning Amendment Bylaw”) for consideration at a public hearing and that introductory readings be given at the next available meeting once the following conditions are met:
  - a. revisions to correct the arborist report, civil plan, and landscape plans to the satisfaction of the Director of Parks, Recreation and Facilities.
2. That following the public hearing the applicant prepare and execute legal agreements to secure the following with the form and contents to the satisfaction of the Director of Sustainable Planning and Community Development, Director of Engineering and Public Works, and the City Solicitor prior to final adoption of the bylaws:
  - a. all dwelling units would remain affordable or below-market rental for 60 years, or the life of the building, whichever is greater
  - b. all dwelling units are to be **operated** by a non-profit or government agency for 60 years, or the life of the building, whichever is greater, to guarantee that the development will continue to provide non-market housing
  - c. a minimum of nine accessible and five adaptable dwelling units to be constructed in accordance with CAN/CSA-B651-95, the National Standard of Canada for barrier-free design
  - d. provide civil design drawings and construct a mid-block crosswalk adjacent to the development, which would include bulb outs, lighting, enhanced street furnishings and landscaping, and coordinate with the mid-block crosswalk requirements associated with the adjacent development proposal on the properties located at 710 Caledonia Ave and 1961 Douglas Street
  - e. the design, supply and installation of the City’s Downtown Public Realm Plan and Streetscape Standards (DPRP), specifically, the ‘New Town’ District for the Discovery Street development frontage, including furnishings, materials, sidewalk

scoring patterns, ~~and~~ pedestrian lights as well as soil cells, irrigation and drainage for municipal replacement trees.

- f. provide five (5) BC Transit's EcoPasses for employees, for a five-year duration; install a level 2 electric charger along the site's Discovery Street frontage for public use; and provide electric charging abilities for a minimum of 20% of the long-term bicycle parking spaces
  - g. install solar voltaic rooftop panels in accordance with the plans dated August 18, 2022
4. Discharge the existing Easement (CA6123705 and CA6123706) from the title of 722 Discovery Street to the satisfaction of the City Solicitor.

## EXECUTIVE SUMMARY

The purpose of this report is to present Council with an update regarding a Rezoning Application and a Development Permit with Variances Application for the properties located at 722 and 726 Discovery Street. The proposal is to rezone from the M-1 Zone, Limited Light Industrial District, to a new residential rental tenure zone in order to increase the density and permit an eight-storey, multi-unit residential building consisting of approximately 90 supportive housing dwelling units.

The application advances the potential creation of 90 supportive housing units, and further advances several policies and objectives in the OCP related to housing and community well-being. In addition, the proposal ensures the retention of two of the three bylaw protected Garry oak trees that were intended to be removed in the previous design. The applicant has requested to proceed with only the Rezoning Application at this time and will advance the Development Permit with Variance application at a later date, when the more detailed design is resolved. Staff are satisfied that sufficient detail has been provided to advance the application.

## BACKGROUND

### Council Pre-Conditions

On October 6, 2022, Council passed a motion to refer the application back to staff and give the applicant an opportunity to reconsider the siting of the building to allow for the retention and protection of the Garry oak trees as well as considering design improvements to further make the building more welcoming and less institutional in appearance. The building has been reoriented to provide a greater setback from the protected trees; further detailed design work is required to address the other issues and to inform the Development Permit with Variances application in general, therefore the applicant has requested to proceed with only the Rezoning Application at this time.

Staff are satisfied that sufficient detail has been provided to demonstrate a reoriented building layout is feasible. The applicant has also submitted further supporting information in the form of an updated preliminary site servicing plan and arborist letter (attached) to support the retention of two of the three bylaw protected Garry oak trees with a revised building orientation. Based on the information submitted, staff are recommending the application be approved. Relevant updates related to Council's original motion of October 6, 2022, are summarized below.

- An updated letter from the project arborist has been submitted which recommends the proposed building be setback a minimum of 10m from the south property line to ensure the retention of the bylaw protected Garry oak trees.

- A revised site plan and landscape plan has been submitted. However, the information related to tree identification, soil volumes, and tree replacement remains insufficient. Further information is required prior to a public hearing to provide accurate information related to the proposed municipal trees and confirmation that the proposal can meet the tree minimum requirements.

## UPDATES

### Plan Revisions

The applicant has committed to a reoriented building design to ensure the retention of two of the Garry oak trees and have requested to decouple the rezoning application from the Development Permit with Variances application. Staff are supportive of this approach as it expedites the proposal for 90 supportive housing units towards a public hearing and allows the applicant additional time to fine tune the detailed design aspects associated with the building and landscape design. The revised plans submitted are a paired back version of what was presented to Council previously and key updates are:

- building reoriented 90 degrees from a north-south direction to an east-west direction
- building height increased from 30.05m to 30.72m
- front yard setback increased from 3m to 10m for the retaining wall and 12m for the building
- west side yard setback reduced from 14.5m to 3m
- reconfiguration of building entrance and accessibility ramp
- outdoor amenity space relocated from the west side yard setback to the front yard beneath the Garry oak trees
- additional privacy landscaping along the Discovery Street frontage
- removal of the bicycle parking pavilion and relocating bicycle parking to the rear of the building.

The reoriented building layout has resulted in a number of improvements to the design, the key one being the retention of two of the mature bylaw protected Garry oak trees. In addition, the building now has a much stronger street presence with the main building entrance and community amenity space facing Discovery Street (previously these were located on the west side of the building). The new siting of the building does however lead to a more compromised interface between the subject site and the property to the north. In the previous iteration, the rear yard setback was 3m, and this has been increased to 4m. The design guidelines recommend a minimum 8m rear yard setback and whilst both versions do not meet this requirement, the liveability impacts of a reoriented building are exacerbated with the current configuration as the north elevation now includes habitable rooms facing the property to the north (the previous design included only mechanical, laundry and a stair access). The applicant is aware of this design challenge, and it is expected that innovative design solutions may be incorporated as part of the detailed design at a later date.

Although Council is not considering the consistency with the relevant design guidelines as part of the Rezoning Application, a trade-off between the retention of the Garry oak trees and the reduced rear yard setback does exist. The 8m rear yard setback requirement has been included in the attached zoning bylaw amendment, so that if the current proposal doesn't proceed, any future development proposal will be subject to the same requirements. On balance, staff are supportive of the reconfigured design since it does advance a number of policies and objectives in the OCP related to housing, community well-being and urban forestry.

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

The goals of the Urban Forest Master Plan include protecting, enhancing, and expanding Victoria's urban forest and optimizing community benefits from the urban forest in all neighborhoods. This application was received after July 1, 2021, therefore Tree Protection Bylaw No. 21-035 applies.

The proposed plans currently show one municipal tree, a 38 cm diameter at breast height (DBH) field elm, as retained. Along the Discovery frontage, there are three large bylaw-protected Garry oak trees (87 cm, 87 cm and 74 cm DBH), and one small bylaw-protected Garry oak seedling on the subject lot. These large trees are likely part of Victoria's remnant Garry Oak ecosystem and are visible in 1928 air photo records. Trees of this size and condition are uncommon in urban environments such as Burnside and Downtown and staff consider them to be significant based on their size, species and condition. Trees in urban environments live in challenging conditions, and space for productive root growth is restricted by underground services and compacted soils, and space above ground is often restricted by overhead wires or building faces.

### Policy Context

This property falls within the Rock Bay District of the DCAP Guidelines. The guidelines provide policy direction with open space and landscaping including to consider tree species in landscape areas that contribute to the City's urban forest objectives. The City's Urban Forest Master Plan (UFMP) speaks to the value of Biodiversity and Conservation of Victoria's remnant ecosystems including Garry oaks. The plan states, "Victoria has many stately old trees that are 'significant' because of their heritage, wildlife, landmark, or historic values. While the Tree Protection Bylaw provides some measure of protection for these much-loved veterans, additional measures are required to encourage and optimize their conservation. In many cases, they are literally irreplaceable."

The Burnside Gorge area has traditionally low canopy cover for the size of the neighborhood at 14.6%. The UFMP recommends an overall canopy cover goal of 40%, aligned with other municipalities in the Pacific Northwest. These large canopy, mature, remnant Garry oaks contribute positively to the canopy cover in a low-canopy neighbourhood, and they also provide many ecological and environmental benefits that are uncommon in a downtown setting. Staff are not aware of any other Garry oaks downtown or in Burnside that are of this size, health and condition.

### Tree Retention

The Rezoning application proposes to retain two of four Garry oaks. The western most mature Oak (tree #153) and adjacent oak seedling are to be removed to accommodate site servicing and access. The application requires that future replacement tree targets are met by replacing trees removed at 1:1 ratio and as per the requirements of the bylaw for siting and soil volumes. The tree minimum requirements of the Bylaw will also need to be met. Two new municipal trees are proposed on the frontage, and to be successful long-term, soil cells with irrigation and drainage are strongly recommended to be provided. Staff have discussed this with the applicant and the applicant is amenable to entering into a legal agreement to secure soil cells for the municipal trees. The staff recommendation has been updated accordingly.

At the request of staff, further exploration work was completed by the arborist to determine the extent and condition of the protected root zones to provide recommendations for the retention of the Garry oak trees within the constraints of the proposed development. This included a review

of available soil volumes, and the soil characteristics within the Protected Root Zones of the Garry oak trees. Borehole excavations, and ground penetrating radar were also completed under arborist supervision, and the information was implemented into the Arborist Report. Setbacks for above and below grade were decided based on this information. The Report recommends a minimum of 10m from the south property line to ensure the retention of the bylaw protected Garry oak trees. This setback requirement has been included in the attached zoning bylaw amendment.

In response to Council direction to reconsider the siting of the proposed building, the revised plans and supporting documents demonstrate that a reoriented building is feasible. The applicant has provided sufficient information to provide assurances (as much as can be realistically provided) of the preservation of two of the three bylaw protected Garry oak trees.

### Further Information

Although the applicant has provided updated information as part of the Rezoning Application, the inventory in the Arborist Report does not account for all the bylaw-protected trees on the subject site. There are a total of eight bylaw-protected trees on the subject properties as well as two smaller yew trees, and confirmation of species is required by Parks prior to Public Hearing. In addition, there is still some uncertainty regarding the implications of the site servicing which will affect the quantity of replacement municipal trees that can be achieved in the frontage. In order to accurately report the number of Bylaw-protected trees on-site and the municipal tree impact summary numbers to Council, further revisions to the Arborist Report, civil plan and landscape plans are required. Given the anticipated timing of the updated Development Permit with Variances application, it is expected that these details can be captured as part of the forthcoming submission with a brief update report to Council prior to setting the Public Hearing date.

### **CALUC Process**

The application has followed the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, and prior to submission, the application was posted on the Development Tracker and mailed notification was sent to owners and occupiers of property within 200m 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.

However, revisions to the proposal trigger the requirement for a second CALUC meeting as the west side yard setback has been reduced by over 20% because of the reoriented building layout. In addition, the revised plans include a nominal increase in the building height from 30.05m to 30.72m, which the applicant cites is due to adjustments in the average grade calculation as a result of the reoriented building, and a slight increase in the main floor elevation to achieve accessible access to the outdoor amenity space.

Given that the proposed revisions are largely driven by responses to Council direction, and the fact that the application is for supportive housing, staff recommend Council waive the requirement for a second meeting.

### **Sewage Attenuation**

Any proposal that seeks to increase density must calculate any increase between the estimated sewer flows expected from the highest use under the existing zoning and the proposed development to determine if on-site attenuation is required. A report has been provided and staff

can confirm that on-site attenuation is not required for the proposal and this requirement has been removed from the recommendation.

## **Variances**

Variances associated with vehicle and bicycle parking will likely be associated with and would be assessed with the resubmission of the Development Permit with Variances application.

Additionally, staff are recommending that the zoning bylaw include a regulation requiring a minimum 8-meter rear yard setback, despite the likelihood that this will also trigger a variance. This will ensure that special design strategies can be required to help address potential impacts associated with the smaller rear yard setback.

## **CONCLUSIONS**

The proposal to increase the density and permit a multi-unit residential building consisting of approximately 90 supportive housing dwelling units advances several policies and objectives in the OCP related to housing and community well-being. The applicant has provided sufficient evidence to meet Council's direction in relation to the retention of two of the three bylaw protected Garry oak trees and further design refinements aimed at making the building more welcoming are being explored and will form part of the subsequent Development Permit with Variance application review process. As such, staff are supportive of the Rezoning application, which is now ready to advance to a public hearing and the attached bylaws are ready to receive introductory readings at the next available Council meeting.

## **ALTERNATE MOTION**

That Council decline Rezoning Application No. 00820 for 722 and 726 Discovery Street.

Respectfully submitted,

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Development Services Division

Karen Hoese, Director  
Sustainable Planning and Community  
Development Department

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

## **List of Attachments**

Attachment A: October 6, 2022 Committee of the Whole Report and Attachments  
Attachment B: Minutes from October 6, 2022 Committee of the Whole meeting  
Attachment C: Council Ratification of October 6, 2022  
Attachment D: Updated Letter from applicant to Mayor and Council dated March 2, 2023  
Attachment E: Revised Plans date stamped March 3, 2023  
Attachment F: Updated Arborist letter dated February 28, 2023  
Attachment G: Root Analysis Report dated December 15, 2022  
Attachment H: Zoning Regulation Bylaw, Amendment Bylaw (No. 1294) No. 23-018  
Attachment I: Correspondence