



Committee of the Whole Report For the Meeting of June 15, 2023

To: Committee of the Whole **Date:** June 1, 2023

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

Subject: **Update Report on Development Permit with Variances Application No. 00126 for 956 Heywood Avenue**

RECOMMENDATION

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

- “1. That Council authorize the issuance of Development Permit with Variances Application No. 00126 for 956 Heywood Avenue, in accordance with plans submitted to the Planning department and date stamped April 28, 2023, subject to:
- a. Proposed development meeting all City zoning bylaw requirements, except for the following variances:
 - i. decrease the front setback from 10.50m to 2.35m (patio) and 3.47m (building face);
 - ii. decrease the front steps/canopy from 4.50m to 1.08m;
 - iii. decrease the rear setback (east) from 7.71m to 3.32m (1st storey up) and 0.61 (building);
 - iv. decrease the north setback from 7.71m to 1.75 (building face) and 1m (patio);
 - v. decrease the south side setback from 7.71m to 1.75 (building face) and 0.28m (stairs);
 - vi. increase the site coverage from 30 percent to 72 percent;
 - vii. decrease the open site space from 30 percent to 18 percent;
 - viii. increase the height from 12m to 13.57m;
 - ix. decrease the vehicle parking from 8 stalls to 6 stalls.
 - b. Registration of a legal agreement on the property’s title, with contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor to secure the provision of one modo carshare membership for each of the five dwelling units, with a value of \$500 each.
2. That the Development Permit with Variances, if issued, lapses two years from the date of this resolution”.

LEGISLATIVE AUTHORITY

This report discusses a Development Permit with Variances Application. Relevant Development Permit with Variance considerations relate to the application's consistency with design guidelines and the impact of variances.

Enabling Legislation

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, 2012 (OCP)*. 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.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with an update on the Development Permit with Variances Application for the property located at 956 Heywood Avenue. This application proceeded to an opportunity for Public Comment on January 28, 2021 at which time, Council directed the applicant to make a number of design changes. Given that nearly two years have passed and that the resulting changes are significant, this report is intended to present Council with updated information, analysis and recommendations pertaining to the revised application.

The proposal is to construct a four-storey building with five dwelling units. The variances are related to reduced setbacks and parking, as well as increased site coverage and height.

The following points were considered in assessing this application:

- the proposal is generally consistent with the Design Guidelines for Development Permit Area 16: General Form and Character, which encourage human-scaled architecture that contributes to the place character of an area
- the proposal is generally consistent with the Fairfield Neighbourhood Plan which supports residential buildings up to four-storeys that are compatible with neighbouring buildings and provide front yard landscaping that contributes to an enhanced streetscape
- the proposed parking variance is considered supportable given the provision of carshare memberships
- due to the relatively small size of the site, there are variances proposed for setbacks and site coverage, the impacts of which have been mitigated by enhanced landscaping and building design
- the proposed increase in height is considered supportable as the main roofline would be similar in height to the adjacent buildings.

BACKGROUND

Description of Proposal

The proposal is to construct a four-storey multi-unit residential building with five units on a smaller "orphaned" lot (568m²) that is situated between two larger four-storey multi-unit residential buildings.

The proposal includes the following major design components:

- low-rise contemporary design
- five three-bedroom and den units
- patio space entryway for all units
- additional exterior space off the living areas for all units
- at grade under building parking accessed via Heywood Avenue
- six short-term and 10 long-term bike parking
- exterior materials that include vertical cedar boards, architectural concrete, flush-mounted downlighting, aluminium windows and doors.

Landscape elements include:

- provision of 15 trees along the north and south side yards
- internal courtyard with barbecue area and built in benches
- private rooftop decks for all units
- front yard and perimeter planting with a mix of native, drought tolerant and pollinator plants.

The variances are to:

- decrease the front setback from 10.50m to 2.35m (patio) and 3.47m (building face)
- decrease the front steps/canopy from 4.50m to 1.08m
- decrease the rear setback (east) from 7.71m to 3.32m (1st storey up) and 0.61 (building)
- decrease the north setback from 7.71m to 1.75 (building face) and 1m (patio)
- decrease the south side setback from 7.71m to 1.75 (building face) and 0.28m (stairs)
- increase the site coverage from 30 percent to 72 percent
- decrease the open site space from 30 percent to 18 percent
- increase the height from 12m to 13.57m
- decrease the vehicle parking from 8 stalls to 6 stalls.

Land Use Context

The area is characterized by several multi-unit residential buildings. Beacon Hill Park is located on the opposite side of Heywood Avenue to the west.

Adjacent land uses include:

- North – 4 storey multi-unit residential buildings
- South – 4 storey multi-unit residential buildings.



Figure 1: Aerial Map

Existing Site Development and Development Potential

The site is presently developed with a single-family dwelling. Under the existing R3-AM-2 Zone, Mid-Rise Multiple Dwelling District, in addition to multiple dwellings the property could also be developed with a duplex or a single-family dwelling with a secondary suite or garden suite.

Data Table

The following data table compares the proposal with the R3-AM-2 Zone, Mid-rise Multiple Dwelling District. An asterisk is used to identify where the proposal does not meet the requirements of the existing Zone. A double asterisk is used to identify an existing non-conformity.

Zoning Criteria	Current Proposal	Previous Proposal	Existing Zone R3-AM-2	OCP and Fairfield Plan
Site area (m ²) – minimum	568**		920	-

Zoning Criteria	Current Proposal	Previous Proposal	Existing Zone R3-AM-2	OCP and Fairfield Plan
Number of units – maximum	5	6	-	-
Density (Floor Space Ratio) – maximum	1.20	1.2:1	1.2:1	1.2:1 (OCP) 1.2:1 – 2:1 (Fairfield Plan)
Lot width (m) – minimum	15.52		-	-
Height (m) – maximum	13.57	12.98* (main roof) 14.81* (roof access)	12	13.5 (Fairfield Plan)
Storeys – maximum	4	4	4	3-6 (OCP) 3-4 (Fairfield Plan)
Site coverage (%) – maximum	72*	64*	30	-
Open site space (%) – minimum	18*	32	30	-
Setbacks (m) – minimum				
Front	3.47* (building face) 2.35 (patio)	6.63*	10.50	Variable
Front steps/canopy	1.08*	4.50		
Rear	3.32* (1st storey up) 0.61* (building face)	1.52*	7.71	-
Side (north)	1.75* (building face) 1.00* (parkade / patio)	1.37* (building face) 0.93* (window screens)	7.71	-

Zoning Criteria	Current Proposal	Previous Proposal	Existing Zone R3-AM-2	OCP and Fairfield Plan
Side (south)	1.75* (building face) 0.28* (parkade / stairs)	1.37* (building face) 0.93* (window screens)	7.71	-
Vehicle Parking – minimum	6*	6*	8	-
Visitor parking	1	0*	1	-
Bicycle parking stalls – minimum				
Long term	10	8	8	-
Short term	6	6	6	-

Relevant History

This proposal was originally submitted as a Rezoning (No. 00689) Application with a concurrent Development Permit Application to increase the density and develop a four-storey building with seven dwelling units.

The application was later revised to reduce the density to be consistent with the existing R3-AM-2 Zone; as a result, the Rezoning Application was retired and instead a Development Permit with Variances Application was advanced and proceeded to an opportunity for Public Comment on January 28, 2021 at which time the Council referred the application to staff to work with the applicant to:

- revise the design to address concerns relating to shading and setbacks
- consider reducing parking and/or unit size or number of units to reduce the building footprint and /or height.

The applicant has made significant design changes in response to Council’s direction. As a result, the building has been redesigned and the number of units have been reduced.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, on September 10, 2019, an earlier version of this application was referred for a 30-day comment period to the Fairfield Gonzales CALUC. A summary of a Community Meeting that was held in relation to the earlier version of this application that necessitated a rezoning application has been provided by the CALUC. Updated plans were referred to the CALUC on October 4, 2022. If further communication from the CALUC is received it will be advanced to Council at a subsequent date. This application proposes variances; therefore, in accordance with the City’s *Land Use Procedures Bylaw*, it requires a notice, sign posting and a meeting of Council to consider the variances.

ANALYSIS

Development Permit Area and Design Guidelines

The subject site is designated as Urban Residential in the OCP, which envisions low and mid-rise multi-unit buildings. The OCP also identifies the site within Development Permit Area 16: General Form and Character, which supports multi-unit residential development that is complementary to the place character of the neighbourhood. Enhancing the character of the streetscape through high quality, human-scaled architecture, landscape and urban design is also a key objective of this DPA. Design Guidelines that apply to DPA 16 are the Multi-Unit Residential, Commercial and Industrial Design Guidelines (2012), Advisory Design Guidelines for Buildings, Signs and Awnings (2006), and Guidelines for Fences, Gates and Shutters (2010).

The proposed development is generally consistent with the objectives for DPA 16 and complies with the guidelines as follows:

- scale, massing and building design respect the character of the area and incorporate natural, warm exterior materials
- a prominent front entry that provides a focal point for pedestrians
- enhanced front yard landscaping that incorporates a mix of native, pollinator and drought resistant plants and trees which complement the meadow landscape of Beacon Hill Park to the north of the site
- underbuilding parking that is screened from view and does not detract from the streetscape along Heywood Avenue.

Fairfield Neighbourhood Plan

The Fairfield Neighbourhood Plan (2019) identifies the site as Urban Residential, consistent with the OCP, and within the Cook Street Village sub-area. The Plan envisions new development up to four storeys and 1.2:1 FSR in this location. New multi-unit residential development is encouraged to have front yard landscaping, street-facing facades, off-street parking that minimizes the impact on the pedestrian realm and site planning, and to be neighbourly and compatible with adjacent development. The proposed building is considered generally consistent with these policies.

Regulatory Considerations

Although the proposed development complies with the R3-AM-2 Zone in terms of use and density, given the relatively small site size, there are several variances required to facilitate the development:

- reduce the front setback from 10.50m to 2.35m (patio) and 3.47m (building face)
- reduce the front steps/canopy from 4.50m to 1.08m
- reduce the rear setback (east) from 7.71m to 3.32m (1st storey up) and 0.61 (building)
- reduce the north setback from 7.71m to 1.75 (building face) and 1m (patio)
- reduce the south side setback from 7.71m to 1.75 (building face) and 0.28m (stairs)
- increase the site coverage from 30 percent to 72 percent
- decrease the open site space from 30 percent to 18 percent
- increase the height from 12m to 13.57m
- reduce the vehicle parking from 8 stalls to 6 stalls.

Site Coverage and Setbacks

At 568 m², the site is legal non-conforming with regards to the minimum site area of the R3-AM-2 Zone, which requires new sites to be a minimum of 900m². Given the relatively small site size, the proposal is seeking variances on maximum site coverage from 30% to 72%, as well as reduced front, rear and side yard setbacks.

The Design Guidelines in the Fairfield Neighbourhood Plan state that new buildings should be located and oriented to address privacy impacts of adjacent residential units and private outdoor space. The building would face the west but would have windows on the north and south elevations that would face primary windows and private balconies on adjacent buildings. However, the main face of the proposed building is located 1.75m away from north and south property lines and the building separation between the proposed building and adjacent buildings is approximately 8.2m on the south side and 8m on the north side, therefore, privacy impacts are considered minimal and would be supportable.

Additionally, to help mitigate the impact of the north and south side yard variances, the proposal includes extensive perimeter landscaping to aid in screening and softening the transition with adjacent properties. Further, roof top decks have been pulled from edges to help reduce privacy impacts. While these design interventions will help mitigate privacy concerns, the proposed building would increase shading of the building to the north. The applicant's letter of response to the Advisory Design Panel includes a detailed shadow analysis comparing the impact of reduced building height or increase setback with the proposed development.

With regards to the front yard variance, the proposed building would project forward by approximately 5.6m relative to the adjacent buildings; however, the reduced setback of 3.47m to building face (and 2.35m to patio) still provides some space for landscaping, steps and entry features at the front and accommodates at-grade outdoor amenity space behind the units. Therefore, the variance is considered supportable because the reduced setback is achieving the intended goals of accommodating rear yards, which are identified in the neighbourhood plan as a key feature.

Other than the driveway, entry path and bicycle parking area, the front yard would be extensively landscaped using a mix of native, pollinator and drought resistant plants and trees. Provision of 15 trees along the north and south side yards, landscaped courtyard, rooftop decks with narrow planters in the north and south elevations, as well as the landscaped area on the rear of the building provide opportunities for additional soft landscaping to help offset the impact of increased site coverage.

The design guidelines encourage building design, landscaping and site planning that is sensitive and innovative to context. Given the constraints of the smaller site in the context of larger lots and the measures taken to ameliorate the privacy and visual impacts of the reduced setbacks and increased site coverage, staff consider the variances as supportable.

Height

The proposed increase in height from 12m to 13.57m is considered supportable as the building maintains a height similar to the surrounding four-storey context.

Parking

A variance is requested to reduce the required number of parking stalls from a total of eight to six stalls. To help offset some of the impacts from this variance the applicant is proposing one car share membership per dwelling unit. Although staff consider the variance as supportable, there may be some impact on on-street parking availability.

Housing

The proposal consists of five residential strata units. The application, if approved, would add five new 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*.

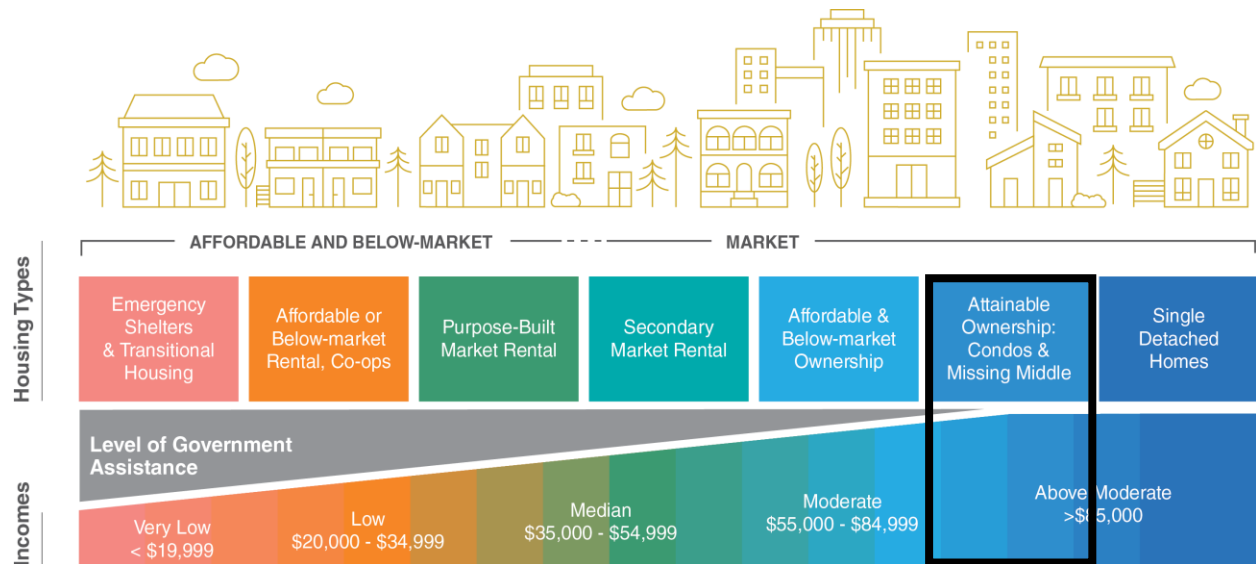


Figure 1. Housing Continuum

Affordability Targets

The proposed residential market strata units would be considered more attainable home ownership compared to a new single-family dwelling.

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 five 3-bedroom units ranging in size from 124.3m² (1338.9 ft²) to 139m² (1497.5 ft²) floor area for each unit.

Security of Tenure

The proposal is for five new market strata units. New Provincial legislation prohibits the ability of strata councils to prevent the rental of units.

Tenant Assistance Policy

The existing single-family dwelling is vacant; therefore, the *Tenant Assistance Policy* does not apply to this proposal.

Accessibility

Accessibility measures beyond those contained in the *British Columbia Building Code*, are not proposed.

Mobility

The application proposes active transportation measures such as:

- ten long-term bicycle stalls (exceeding the minimum requirements in the *Zoning Regulation Bylaw* by four), including six short-term bicycle stalls
- a modo carshare membership for each of the five dwelling units, with a value of \$500 each, which supports multi-modal transportation.

Sustainability

No sustainable features beyond minimum City standards are proposed in associated with this application.

Public Realm

No public realm improvements, beyond City standard requirements, are proposed in association with this Development Permit with Variance Application.

Advisory Design Panel

The application was referred to the Advisory Design Panel (ADP) on January 22, 2020 (minutes attached) where the following motion was carried:

It was moved ... that Development Permit with Variances Application No. 00126 for 956 Heywood Avenue be approved with the following changes:

- *consideration of the minimum side yard setbacks affecting livability to the neighbours.*

The side yard setbacks have been increased from 1.37m to 1.75m and the height has been reduced from 14.81m to 13.57m. In the attached letter of response, dated July 6, 2020, the applicant has noted that any further reduction in the width of the building would negatively impact the livability of the proposed dwellings, and that reducing the height by sinking the parking level further into the site is unfeasible due to soil conditions.

With the Council referring the application back to staff to work on revisions, the application was referred again to the Advisory Design Panel (ADP) on December 15, 2021 (minutes attached) where the following motion was carried:

It was moved...that Development Permit with Variances Application No. 00126 for 956 Heywood Avenue be approved with the following changes:

- *review building code requirements for guards at patios and stairways if required, to achieve a positive relationship with the street*
- *review the exiting requirements for the parkade, due to possible impact on landscaping and setbacks*
- *consider solar shading measures to the west facing windows*
- *ensure high quality cedar cladding finish*
- *consider reducing or stepping the east facing patios to increase the landscape buffer*
- *consider alternate materials to stucco and cap flashing.*

As indicated in the List of Revisions dated August 3, 2022, the applicant has made design changes in response to ADP's motion:

- handrails have been added to the patios facing Heywood Avenue
- exiting requirements have been reviewed and addressed by adding an exit stair to the garage level
- landscaping and setbacks have been addressed
- a garage door has been added to the entrance of the parkade and the parkade has been enlarged to accommodate an exit stair
- trees have been added to the rear yard patios at the east
- stucco finish on east and west elevations of both buildings have been revised to Exterior Insulation and Finish System (EIFS)
- heat gain will be managed by a Heat Recovery Ventilator (HRV) system and interior blinds will be used in lieu of exterior solar shades. Additionally, framed elements provide integrated solar shading with 2'-3" overhangs on the ground floor and 8" overhangs on Levels 2 and 3.

With regard to considering solar shading measures to the west facing windows, the applicant has noted in the correspondence dated April 18, 2023 that, "*Heat gain will be managed by HRV system and interior blinds. Additionally, the framed elements provide integrated solar shading with 2'-3" overhangs on the ground floor and 8" overhangs on Levels 2 and 3*".

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 neighbourhoods. This application was received before October 24, 2019, so Tree Preservation Bylaw No. 05-106 (Consolidated on June 1, 2015) applies.

A total of 24 trees have been inventoried. Of these, 18 are located on the subject lot, none of which are bylaw protected. There is one bylaw protected tree and three non-bylaw protected trees located off-site. Currently, there are no boulevard trees on the frontage.

All trees on the subject lot are proposed for removal, which is required for construction of the proposed building.

All off-site trees shall be retained, including bylaw protected tree NT1 (81cm diameter multi-stemmed black pine).

The applicant is proposing to plant 19 new trees on the subject lot, primarily along the perimeter of the property. One new tree is proposed in the municipal boulevard.

Tree Impact Summary Table:

Tree Status	Total # of Trees	To be REMOVED	To be PLANTED	NET CHANGE
On-site trees, bylaw protected	0	0	0	0
On-site trees, not bylaw protected	18	18	19	+1
Municipal trees	0	0	1	+1
Neighbouring trees, bylaw protected	1	0	0	0
Neighbouring trees, not bylaw protected	3	0	0	0
Total	22	18	20	+2

Resource Impacts

Increased Inventory	Annual Maintenance Cost
Street Trees – 1 net new	\$60

CONCLUSIONS

The proposal to construct a four-storey building with five dwelling units on a relatively small R3-AM-2 zoned lot is considered consistent with the Design Guidelines for Development Permit Area 16: General Form and Character. The building and associated landscaping fit within the context of apartment buildings along Heywood Avenue and a number of design strategies have been used to mitigate the impact of the variances on adjacent properties and the public realm.

ALTERNATE MOTION

That Council decline Development Permit with Variances Application No. 00126 for the property located at 956 Heywood Avenue.

Respectfully submitted,

Manasvini Thiagarajan
Planner
Development Services Division

Karen Hoeser, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped April 28, 2023
- Attachment D: List of Revisions dated April 28, 2023

- Attachment E: Response comments dated April 28, 2023
- Attachment F: Response comments dated August 3, 2022
- Attachment G: Letter from applicant to Mayor and Council dated September 13, 2021
- Attachment H: Community Association Land Use Committee Comments on Rezoning Application No. 00689, dated November 22, 2018
- Attachment I: Advisory Design Panel meeting minutes dated December 15, 2021
- Attachment J: Advisory Design Panel meeting minutes dated January 22, 2020
- Attachment K: Letter from the applicant in response to the Advisory Design Panel dated July 6, 2020
- Attachment L: Committee of The Whole Minutes dated July 23, 2020
- Attachment M: Public hearing minutes dated January 28, 2020
- Attachment N: Correspondence (Letters received from residents).