



Committee of the Whole Report For the Meeting of June 29, 2023

To: Committee of the Whole **Date:** June 15, 2023

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

Subject: **Rezoning Application No. 00744 and Development Permit with Variances Application No. 00223 for 623/625 Avalon Road**

RECOMMENDATION

Rezoning Application

1. That Council instruct the Director of Sustainable Planning and Community Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff report dated June 15, 2023 for 623/625 Avalon Road.
2. That first and second reading of the zoning bylaw amendment be considered by Council and a public hearing date be set.
3. 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.
4. That the above Recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

Development Permit with Variance Application

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the public hearing for Rezoning Application No. 00744, if it is approved, consider the following motion:

- “1. That subject to the adoption of the necessary Zoning Regulation Bylaw amendment, Council authorizes the issuance of Development Permit with Variance No. 00223 for 623/625 Avalon Road, in accordance with plans submitted to the Planning department and date stamped by Planning on January 11, 2023, subject to:
 - a. Proposed development meeting all City zoning bylaw requirements, Schedule M – Garden Suites, except for the following variances:
 - i. increase the rear yard site coverage from 25% to 28.10%.

- b. Secureg the provision of three car share memberships including credits for each membership with contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor.
- c. That the Development Permit with Variances, if issued, lapses two years from the date of this resolution.”

LEGISLATIVE AUTHORITY

This report discusses a Rezoning Application and a concurrent Development Permit with Variance Application. Relevant rezoning considerations include the proposal to add a garden suite as a permitted use with a two-family dwelling by converting an accessory building, while the relevant DPV considerations relate to the application’s consistency with design guidelines and the impact of the variance.

Enabling Legislation

In accordance with Section 479 of the *Local Government Act*, Council may regulate within a zone the use of land, buildings and other structures, the density of the use of the land, building and other structures, the siting, size and dimensions of buildings and other structures as well as the uses that are permitted on the land and the location of uses on the land and within buildings and other structures.

In accordance with Section 482 of the *Local Government Act*, a zoning bylaw may establish different density regulations for a zone, one generally applicable for the zone and the others to apply if certain conditions are met.

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.

Pursuant to Section 491 of the *Local Government Act*, where the purpose of the designation is the establishment of objectives for the form and character of intensive residential development, a Development Permit may include requirements respecting the character of the development including landscaping, and the siting, form, exterior design and finish of buildings and other structures.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Rezoning Application and Development Permit with Variance Application for the property located at 623/625 Avalon Road. The proposal is to rezone from the R-2 Zone, Two Family Dwelling District to a site-specific zone that would also allow a garden suite, by converting an existing accessory building. The existing duplex is heritage designated and within the Avalon-Huntington Heritage Conservation Area, however, the existing accessory building is not designated and was more recently constructed. There is a concurrent Development Permit with Variance Application pertaining to the proposed form, character, exterior design, finishes and landscaping and variances related to rear yard site coverage.

The following points were considered in assessing the Rezoning Application:

- the proposal is generally consistent with the *Official Community Plan, 2012 (OCP)* Traditional Residential Urban Place Designation in terms of use and density and would add to the diversity of housing within the neighbourhood.
- The *James Bay Neighbourhood Plan* supports providing a range of housing opportunities, and infill that is appropriate and subject to the rezoning process.
- The existing house is heritage designated and is within the Avalon-Huntington Heritage Conservation Area. The garden suite generally fits within the heritage context.
- When assessed against the *Garden Suite Policy and Guidelines, 2017*, the proposal is inconsistent with the policy direction that envisions garden suites on lots where the principal use is a single-family dwelling. However, the OCP considers granting variances to enable heritage conservation. The applicant is not proposing any enhancements to the recently restored designated house.

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

- The garden suite would be created by converting an existing accessory building and there would only be minor changes made to the building.
- The proposal is generally consistent with the policies and design specifications of the *Garden Suite Policy*.
- The variance for the rear yard site coverage is supportable as the current condition is not changing.

There are inconsistencies with City policies; however, the proposal does add to the rental housing stock and reuses an existing structure. The staff recommendation is to move the application forward for consideration after a Public Hearing.

An alternate motion is provided should Council wish to consider approving the application with the registration of a statutory right-of-way or decline the application.

BACKGROUND

Description of Proposal

This proposal is to allow a garden suite in the rear yard of an existing two-family dwelling. There are no changes proposed for the existing duplex, and there are only minor changes required to convert the existing accessory building to a garden suite.

The difference from the standard R-2 Zone, Two-Family Dwelling District, is that a garden suite would be a permitted use. Currently, garden suites are only permitted in certain zones with a single-family dwelling.

The associated Development Permit with Variance is to allow the garden suite. Specific details include:

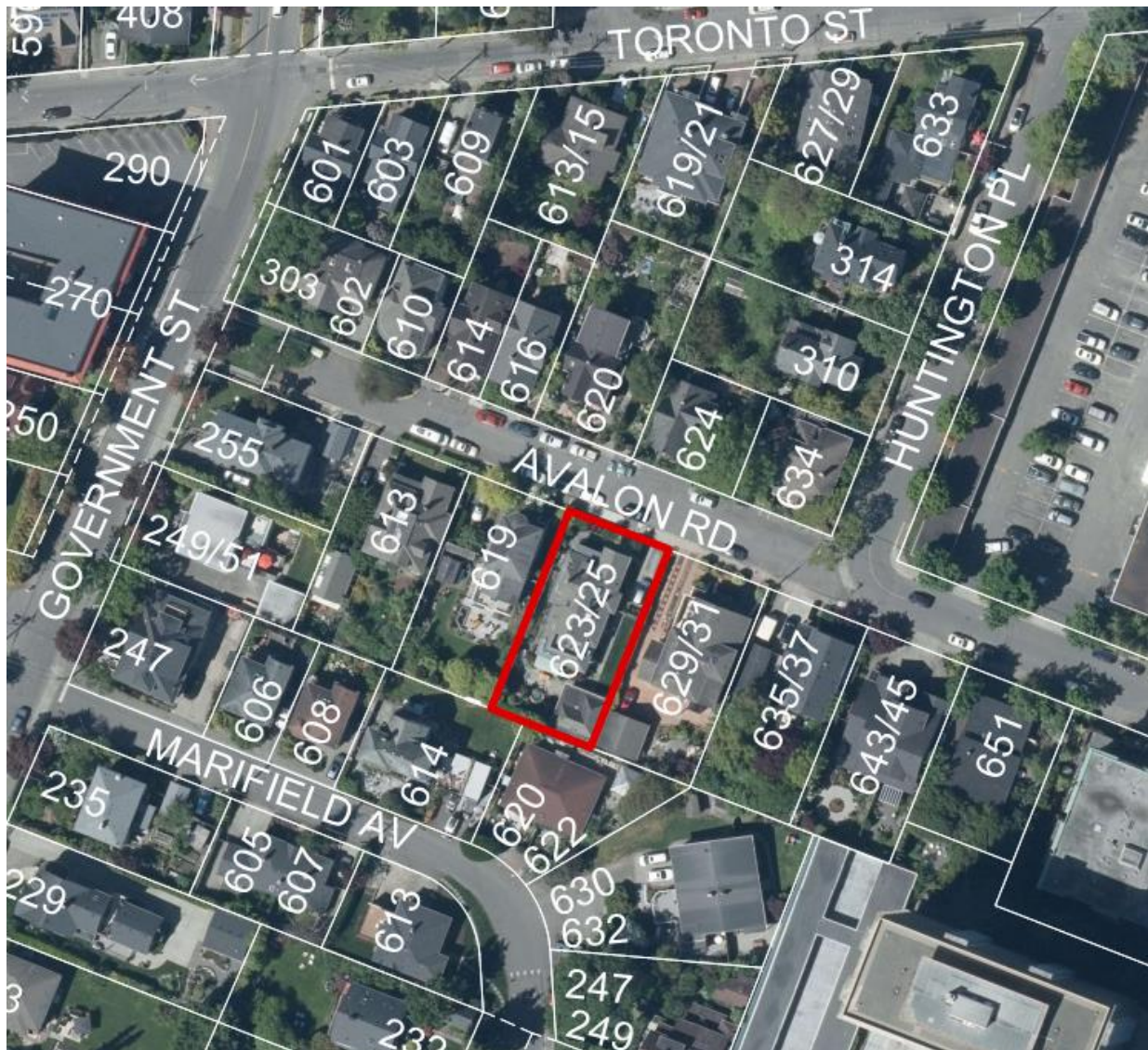
- one and a half storey with a hipped roof
- horizontal engineered and wood siding
- new window openings on the west elevation and three new skylights
- semi-private outdoor space for garden suite created with lattice fence panels.

The proposed variance for the garden suite is related to increasing the rear yard site coverage from 25% to 28.10%.

Land Use Context

The area is characterized by single family dwellings and two-family dwellings. There are several heritage designated houses on Avalon Road and it is within the Avalon-Huntington Heritage Conservation Area.

Immediately adjacent land uses include single family dwellings and duplexes.



Existing Site Development and Development Potential

The site presently contains a heritage-designated duplex.

Under the current R-2 Zone, Two-Family Dwelling District, the property could be developed as a two-family dwelling, or a single-family dwelling with a secondary suite or a garden suite.

Data Table

The following data table compares the proposal with the existing R-2 Zone, Two-Family Dwelling District and Schedule M – Garden Suites. An asterisk is used to identify where the proposal does not meet the requirements of the existing Zone. Two asterisks are used to identify where there is an existing non-conformity.

Zoning Criteria	Proposal	Existing Zone
Two-family Dwelling		R-2 Two-Family Dwelling
Site area (m ²) – minimum	669	555
Site area per unit (m ²) – minimum	n/a	277.50
Number of units – maximum	3 (2 plus a garden suite)*	2
Density (Floor Space Ratio) – maximum	0.36	0.50
1 st & 2 nd storey floor area (m ²) – maximum	238.00	280.00
Combined floor area (m ²) – maximum	393.00**	380.00
Lot width (m) – minimum	18.29	15.00
Height (m) – maximum	7.12	7.60
Storeys – maximum	1.5	1.5
Site coverage (%) – maximum	37.50	40.00
Open site space (%) – minimum	56.00	30.00
Open site space - Rear yard (%) (min.)	71.00	33.00
Setbacks (m) – minimum		
Front	4.38**	7.50
Rear	9.73**	12.71
Side (west)	1.25**	1.83
Side (east)	5.06	3.00
Combined side yards	6.31	4.50
Parking – minimum	1**	2

Zoning Criteria	Proposal	Existing Zone
Garden Suite	Proposal	Schedule M – Garden Suite (Plus Site)
Primary use	Duplex*	Single Family Dwelling
Location	Rear yard	Rear yard
Site area (m ²) - minimum	669.00	557.00
Floor area (m ²) – maximum	48.70	56.00
Height (m) - maximum	3.36	4.20
Number of storeys - maximum	1.5	1.5
Setback (m) – minimum:		
Rear (south)	1.05	0.60
Side (east)	0.62	0.60
Separation space between buildings (within the site) (m) – minimum	2.86	2.40
Rear yard site coverage (%) - maximum	28.10*	25.00

Active Transportation

The application proposes the following features which support active transportation:

- separated space for bike storage within the garden suite
- car share memberships for each unit.

Public Realm

No public realm improvements beyond City standard requirements are proposed in association with this application.

Relevant History

The principal building was constructed in 1899. Heritage designation occurred in 1977. In 2017, the use was changed from a single-family dwelling to a duplex which was achieved by replacing the foundation, constructing an addition to the rear of the house, and adding a second storey in the attic. Since the building was heritage designated, a Heritage Alteration Permit with Variances was required to:

- decrease setbacks
- increase the rear yard site coverage

- reduce the parking from two stalls to one stall
- allow a gravel surface for off street parking.

At the time, some of the stone from the foundations were used to create a wall of approximately between 0.56m and 0.77m high along the front of the property. This rock wall is not heritage designated, but it does add some interest to the streetscape and adaptive reuse of the original stones adds to the history.

The accessory building was constructed in 2006 and included a toilet and sink. It is not part of the heritage designation.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, prior to submission of the application, it was posted on the Development Tracker along with an invitation to complete a comment form before February 5, 2021. Mailed notifications were sent to owners and occupiers of property within 100m of the subject property advising that a consultation process was taking place and that information could be obtained and feedback provided through the Development Tracker. A sign was also posted on site, to notify those passing by of this consultative phase. Additionally, the applicant participated in a community meeting with the CALUC on December 21, 2020. A letter dated January 16, 2021, along with the comment forms are attached to this report.

The associated application proposes variances, therefore, in accordance with the City's *Land Use Procedures Bylaw*, it requires notice, sign posting and a meeting of Council to consider the variances.

ANALYSIS

Rezoning Application

Official Community Plan

The *Official Community Plan, 2012*(OCP) Urban Place Designation for the subject property is Traditional Residential, which supports ground-oriented residential uses. The OCP states that new development may have a density of generally up to 1:1 FSR and up to two storeys in height. The proposal is generally consistent with these broad guiding policies; however, the OCP also notes that within each designation there will be a range of built forms and that decisions about the appropriate form and scale of a building for a particular site will be based on an evaluation of the context in addition to consistency with OCP policies, other relevant City policies and local area plans.

The conversion of an accessory building to a garden suite creates one new rental unit, which supports the broad objectives of Section 13: Housing and Homelessness, which encourage a wide range of housing choice within neighbourhoods and the expansion of rental housing supply through regeneration.

James Bay Neighbourhood Plan

The *James Bay Neighbourhood Plan* supports providing a range of housing opportunities, and infill that is appropriate and subject to the Rezoning process.

The Garden Suite Policy and Guidelines

Under the *Garden Suite Policy and Guidelines* only properties with a single family detached dwelling and no existing secondary suites are eligible for garden suites. The subject property is a duplex, therefore, does not meet these criteria.

Housing

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

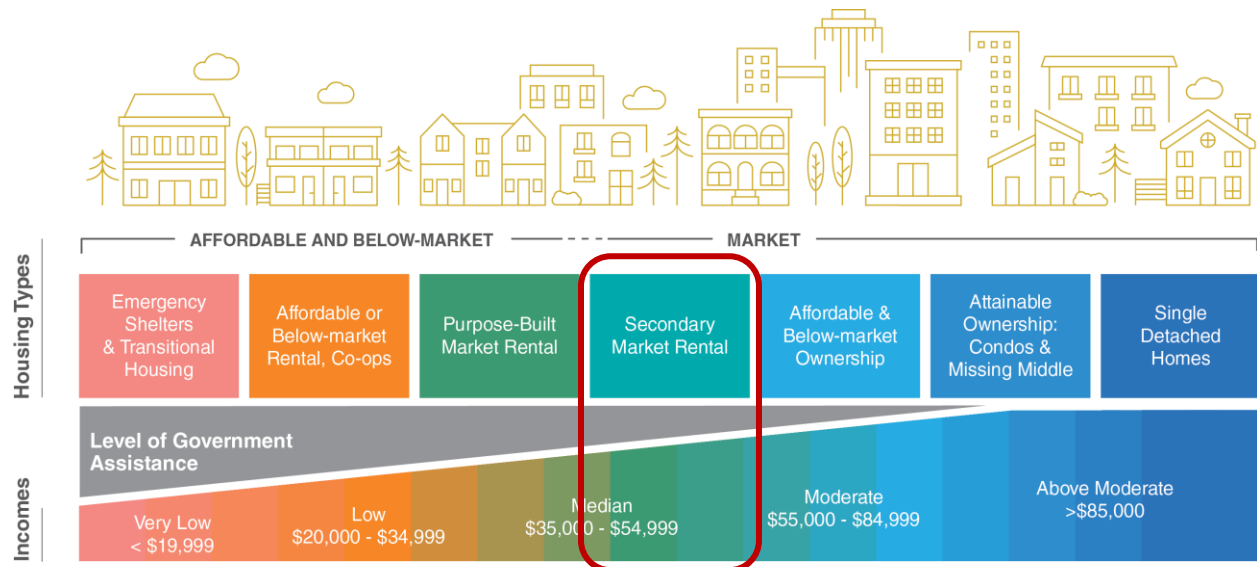


Figure 1. Housing Continuum

Housing Mix

At present there is no policy that provides targets regarding housing mix and unit type. However, the OCP identifies a mix of units as an objective and identifies the need for a diverse range of housing units. The proposed garden suite will provide a studio unit.

Security of Tenure

Garden suites cannot be strata titled or subdivided; therefore, it could be used as a rental suite or for use by the owners.

Heritage Designated Building and Heritage Conservation Area

The modifications to the existing accessory building are minor, and complementary to the main house and meet the intent of policies for buildings and sites under Section 8 of the *Official Community Plan, 2012* (OCP) that require new infill buildings to respond to their context through sensitive design. The existing accessory building has a hipped and flat roof and horizontal tongue and groove siding, similar to the main house.

The *James Bay Neighbourhood Plan* supports retention of existing housing stock and streetscapes and encourages new development that respects the existing streetscape character. The objectives of the Avalon-Huntington Heritage Conservation Area are to conserve and

enhance the heritage value and special character and features of low-scale traditional residential areas. It also has the purpose of enhancing the area through infill with high quality architecture, landscape and urban design that responds to the historic setting. Further, it requires that any infill be sympathetic in scale, design, form, and materials to surrounding units.

Development Permit with Variance Application

Official Community Plan: Design Guidelines

The *Official Community Plan, 2012* (OCP) identifies this property within Development Permit with Variance 15E: Intensive Residential – Garden Suites. The proposal is consistent with the objectives of DPA 15E in terms of utilizing existing accessory buildings for residential uses and achieving new infill that respects the established character in residential areas.

The proposed development is consistent with the relevant land use policies of the *Garden Suite Policy and Guidelines*, such as:

- small, ground-oriented unit located in the rear yard
- materials and roof form generally relate to the heritage designated primary building
- semi-private outdoor space
- permeable pavers for hardscape
- windows sensitively designed to reduce privacy impacts for neighbours.

Ideally, the front entry should be oriented toward the street, with a secondary preference toward the interior of the site if not practical. However, due to converting the building, the applicant is proposing to keep the garage door facing the street for access to the studio space, with the main entry on the side. This is generally supportable as there are windows and an address sign on the garden suite facing toward the street, and a semi-private outdoor space and landscaping to accentuate the entry and dwelling.

Variances

There is a variance to increase the rear yard site coverage in Schedule M – Garden Suites, from 25% to 28.1%, which is supportable given its an existing building and is not changing.

Transportation Demand Management

The parking requirement for a two-family dwelling is two, while there is no parking requirement for a garden suite. A parking variance from two stalls to one stall was approved in 2017 when the house was changed to a duplex. The provision of one parking stall for the three proposed units will likely not meet the parking demand generated for this property. To provide future residents with additional transportation options, car share memberships were recommended, and the applicant has agreed to provide a membership for each of the units.

Accessibility

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

Sustainability

As indicated in the applicant's letter dated September 28, 2022, repurposing an existing building

has sustainability benefits.

Tree Preservation Bylaw and Urban Forest Master Plan

There are no *Tree Preservation Bylaw* impacts with this application, and there are no impacts to public trees with this application.

Statutory Right-of-Way (SRW)

The standard right-of-way width for a local street is 18.0 metres; however, future transportation-related needs on the corridor can be met in a right-of-way width of 15.0 metres. To help achieve this minimum width on this portion of Avalon Road, an SRW of 1.41 metres was requested. Although there are no immediate plans to utilize this SRW, securing this space for future public realm improvements including those that improve pedestrian accessibility and urban forestry was requested.

The applicant has communicated an unwillingness to grant the requested SRW. There is concern from the applicant that implementing the SRW would impact a low stone wall built from the original house foundation materials, impact the historic streetscape, and remove trees. However, the rock wall would not need to be removed in the immediate future. Nonetheless, given the context of being within a Heritage Conservation area and on a dead-end street, staff are recommending that Council support the application moving forward without requiring the SRW. However, an alternative motion is provided which would require the applicant to register the SRW prior to final adoption of the Zoning Bylaw Amendment.

CONCLUSIONS

This proposal to construct a garden suite by utilizing an existing accessory building is consistent with the OCP objectives and guidelines for sensitive infill in the form of garden suites within established residential areas. While the *Zoning Regulation Bylaw* and *Garden Suite Policy* do not anticipate the provision of garden suites with duplexes, the OCP does allow for a range of housing types. The request to increase the rear yard site coverage, reflects an existing condition and is quite a small increase. While it is normal practice for staff to recommend a statutory right-of-way with rezoning applications in order to fulfil the *Official Community Plan, 2012* (OCP) objectives, Avalon Street is a Heritage Conservation Area and a dead-end street; it is therefore recommended to move the application forward without requiring the typical SRW. An alternate motion is provided should Council wish to require the SRW.

ALTERNATE MOTION

Option 1 – Secure SRW

Rezoning Application

1. That Council instruct the Director of Sustainable Planning and Community Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff report dated June 15, 2023 for 623/625 Avalon Road.
2. That first and second reading of the zoning bylaw amendment be considered by Council and a public hearing date be set.

3. That subject to approval in principle at the public hearing, the applicant prepares and executes the following legal agreements, with contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor prior to adoption of the bylaw(s):
 - a. 1.41m wide right of way along Avalon Road for highway purposes.
4. That adoption of the zoning bylaw amendment will not take place until all of the required legal agreements that are registrable in the Land Title Office have been so registered to the satisfaction of the City Solicitor.
5. That the above Recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

Development Permit with Variance Application

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the public hearing for Rezoning Application No. 00744, if it is approved, consider the following motion:

- “1. That subject to the adoption of the necessary Zoning Regulation Bylaw amendment, Council authorizes the issuance of Development Permit with Variance No. 00223 for 623/625 Avalon Road, in accordance with plans submitted to the Planning department and date stamped by Planning on January 11, 2023, subject to:
 - a. Proposed development meeting all City zoning bylaw requirements, Schedule M – Garden Suites, except for the following variances:
 - ii. increase the rear yard site coverage from 25% to 28.10%.
 - b. Securing the provision of three car share memberships including credits for each membership with contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor.
2. That the Development Permit with Variances, if issued, lapses two years from the date of this resolution.”

Option 2 – Decline

That Council decline Application No. 00744 for the property located at 623/625 Avalon Street.

Respectfully submitted,

Chelsea Medd
Planner
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: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped January 11, 2023

- Attachment D: Letter from applicant to Mayor and Council dated September 29, 2022
- Attachment E: Community Association Land Use Committee Comments dated January 16, 2021
- Attachment F: Pre-Application Consultation Comments from Online Feedback Form
- Attachment G: Correspondence (Letters received from residents).