



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

To: Committee of the Whole **Date:** May 4, 2023

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

Subject: **Rezoning Application No. 00767 and Development Permit with Variances Application No. 000594 for 1326 Pandora Avenue**

RECOMMENDATION

That Council decline Rezoning Application No. 00767 and Development Permit with Variances Application No. 000594 for the property located at 1326 Pandora Avenue.

LEGISLATIVE AUTHORITY

This report discusses a Rezoning Application and a concurrent Development Permit with Variances (DPV) Application. Relevant rezoning considerations include the proposal to increase the density while the relevant DPV considerations relate to the application's consistency with design guidelines and the impact of the variances.

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 489 of the *Local Government Act*, Council may issue a Development Permit in accordance with the applicable guidelines specified in the *Community Plan*. 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 Variances application for the property located at 1326 Pandora Avenue. The applicant's proposal is to rezone the subject property from the R-2 Zone Two Family Dwelling District to a new zone to permit the construction of a four-unit residential townhouse.

Although a four-unit building is permitted under the current zone (Schedule P: Missing Middle Regulations), the requirements of the regulations are not being met including the provision of an adaptable and a secondary dwelling unit. Therefore, a rezoning is required. There is a concurrent Development Permit with Variances Application pertaining to the proposed form, character, exterior design, finishes and landscaping and several variances related to siting, height, parking, and landscaping.

The following points were considered in assessing the Rezoning Application:

- The proposal is consistent with the "Traditional Residential" designation in the Official Community Plan, 2012 (OCP), which envisions ground-oriented attached dwellings up to a maximum density of 1:1 floor space ratio (FSR)
- The proposal is inconsistent with the General Development Guidance section of the OCP, which encourages the logical assembly of development sites that enable the best realization of permitted development potential for the area
- The proposal is consistent with the use and density envisioned in the *Fernwood Neighbourhood Plan*
- The proposal is inconsistent with *Missing Middle Design Guidelines* that encourage building orientation towards the fronting street
- The proposal does not meet the Missing Middle Regulations' (Schedule P) requirement to provide an adaptable dwelling and a secondary suite. Significant revisions would also be required to meet the siting requirements of Schedule P.

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

- The proposal is inconsistent with the housing design guidance objectives in the *Fernwood Neighbourhood Plan* that seeks to ensure new buildings relate to and provide a sensitive transition to existing and future buildings
- The proposal meets the Development Permit Area objectives to integrate more intensive residential development within a Traditional Residential area. However, the following guidelines are not being met:
 - Buildings should be oriented towards the fronting street (Pandora Avenue) to maintain front yard patterns, enhance the public street, and contribute to street vitality. Galley style development sites perpendicular to the street are discouraged unless explicitly supported by a neighborhood plan.
 - Open space should be consolidated to maximize contiguous soil volumes and usable green space.
 - Building designs and roof forms should minimize impacts on sunlight access to public and private outdoor spaces on adjacent properties.
 - Buildings should minimize overlook onto adjacent private yards through increased setbacks; mid-block townhouses should transition in scale through varying building height and roof pitch, and modulating facades to match adjacent existing buildings.

- Windows into habitable rooms should not face a side yard unless setback approximately 5m from side property line.

BACKGROUND

Description of Proposal

This proposal is to construct a four-unit residential building. Specific design details of the proposal include:

- three-storey building consisting of contemporary architectural features
- tuck-under covered parking beneath each unit partially below grade
- private amenity space in the form of garden areas in front of each unit, and shared amenity space in the form of garden and patio areas at the front and rear of the building
- corrugated metal screens (perforated and non-perforated) are the primary exterior finishing materials with cast in place architectural concrete, and transparent glass windows with white vinyl frames
- landscaping elements consisting of smooth concrete for the walkway, permeable pavers for the drive aisle, and soft landscaping throughout the site with a total of 12 trees in addition to ground cover plantings.

Land Use Context

The area is characterized primarily by residential uses ranging from ground-oriented forms such as single-family dwellings and duplexes up to low rise (three-storey) apartment buildings on Pandora Avenue.

Figure 1 shows an aerial of the subject property and the surrounding context.

Existing Site Development and Development Potential

The site is presently vacant.

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

Under the existing zoning, Schedule P: Missing Middle Regulations would allow for a houseplex with up to six units, subject to the provisions of that zoning. If the applicant met Schedule P, by providing the required adaptable and secondary dwelling units and eliminating the need for variances, this application could be a candidate for delegated approval.



Figure 1. Aerial photo of subject property

Data Table

The following data table compares the proposal with the existing R-2 Zone, Two Family Dwelling District and Schedule P: Missing Middle Regulations. An asterisk is used to identify where the proposal does not meet the requirements of the existing zone.

Zoning Criteria	Proposal	Existing Zone (R-2 Zone)	Zone Standard Missing Middle (Schedule P)
Lot area (m ²) – minimum	549.00	555	N/A

Zoning Criteria	Proposal	Existing Zone (R-2 Zone)	Zone Standard Missing Middle (Schedule P)
Lot Width (m) – minimum	13.36*	15.00	14.00
Number of dwelling units per building	4*	Maximum: 2	Minimum: 3 Maximum: 6
Number of buildings per lot - maximum	1	1	N/A
Adaptable dwelling units – minimum	0	N/A	1
Secondary dwelling units - minimum	0	N/A	1
Three-bedroom dwelling units - minimum	4	N/A	2
Dwelling unit floor area (m ²) - minimum	137.00	N/A	33.00
Driveway surface material	Concrete	Solid	Solid
Density (Floor Space Ratio) – maximum	0.99:1*	0.5:1	0.5:1 (or 1:1 with amenities)
Total floor area (m ²) – maximum	548.00	N/A	549.00
Floor area per storey (m ²) – maximum	49.00	N/A	235.00
1st & 2nd storey floor area (m ²) – maximum	98.00	280.00	N/A
Height (m) – maximum	10.49*	7.60	9.00
Storeys – maximum	3*	1.5	N/A
Site coverage (%) – maximum	35.80	40.00	40.00
Open site space (%) – minimum	32.20*	30.00	45.00

Zoning Criteria	Proposal	Existing Zone (R-2 Zone)	Zone Standard Missing Middle (Schedule P)
Rear Yard open site space (%) – minimum	37.70	33.00	35.70
Landscaping Space	Not provided	N/A	Required
Setbacks (m) – minimum			
Front	6.00*	7.50	6.10
Rear	4.00*	14.41	10.28
Side (east)	1.50	1.52	1.50
Side (west)	3.20	3.00	1.50
Combined side yards	4.70	4.50	N/A
Parking spaces – minimum	4	2	3
Accessible parking included in the overall units – minimum	0	N/A	1
Long-term bicycle parking spaces – minimum	8	N/A	8
Short-term bicycle parking spaces – minimum	6	N/A	6

Sustainable Mobility

No sustainable mobility improvements 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 application.

Relevant History

This application was submitted on February 22, 2021. On January 26, 2023, the Missing Middle regulations and guidelines were adopted and came into effect on March 12, 2023. The proposal fits the definition of Missing Middle in the *Zoning Regulation Bylaw* and *Official Community Plan* but does not comply with Schedule P: Missing Middle Regulations and Development Permit Area 15F: Missing Middle guidelines. The applicant has indicated that they do not want to update the proposal in response to these regulations and guidelines.

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 on December 11, 2020. Mailed notification was 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.

A letter dated January 20, 2021, from the Fernwood Community Association, along with one completed comment form, are attached to this report. Feedback from these two sources expressed concerns about a lack of affordability, loss of mature trees, impacts on sunlight exposure and views, and design considerations related to the materials and the orientation of the building. There do not appear to be any design revisions that responded to the pre-app consultation.

The associated development permit 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 OCP designates the property within the Traditional Residential Urban Place Designation. Within this designation, multi-unit buildings up to three storeys, including missing middle housing and attached dwellings, are envisioned along arterial and secondary arterial roads. Pandora Avenue is classified as a secondary arterial road. Floor space ratio is contemplated up to approximately 1:1. The proposed floor space ratio is consistent with this limit.

The proposal is inconsistent with OCP General Development Guidance Objective 6.8, which encourages the logical assembly of development sites that enables the best realization of permitted development potential for the area. In this instance, the logical assembly of land would include either one or both sites on either side of the subject property. The acquisition and consolidation of one or both sites would result in a lot width that is consistent with the requested Traditional Residential zoning, as well as Schedule P. The increased site area would allow for more generous setbacks to adjacent properties, open space, and the orientation of the building parallel to the fronting street and sidewalk. Assembly would also serve to limit the number of

driveway crossings and interruptions to the sidewalk, boulevard, and bike lane along Pandora Avenue.

Fernwood Local Area Plan

The *Fernwood Neighbourhood Plan* (FNP) identifies this property as Traditional Residential, consistent with the OCP designation, and similarly envisions FSR up to 1:1. As noted earlier, the proposal is consistent with permitted FSR under the OCP designation. Future Planning Policy 6.24 in the FNP contemplates opportunities for new multi-unit housing on the Pandora corridor.

The FNP also encourages logical assembly of lots, limiting “orphaning” of smaller lots, and limiting the number of driveway crossings. The FNP housing policies encourage built forms and site layouts that are focused on livability. Built forms and site layout are context-dependant but may include buildings with greater front yard setbacks and shared rear yard green spaces. Housing design guidance in the FNP includes objectives to ensure access to open space, privacy, and to provide a sensitive transition to both existing and future buildings.

Housing

The application, if approved, would add four new three-bedroom 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*.

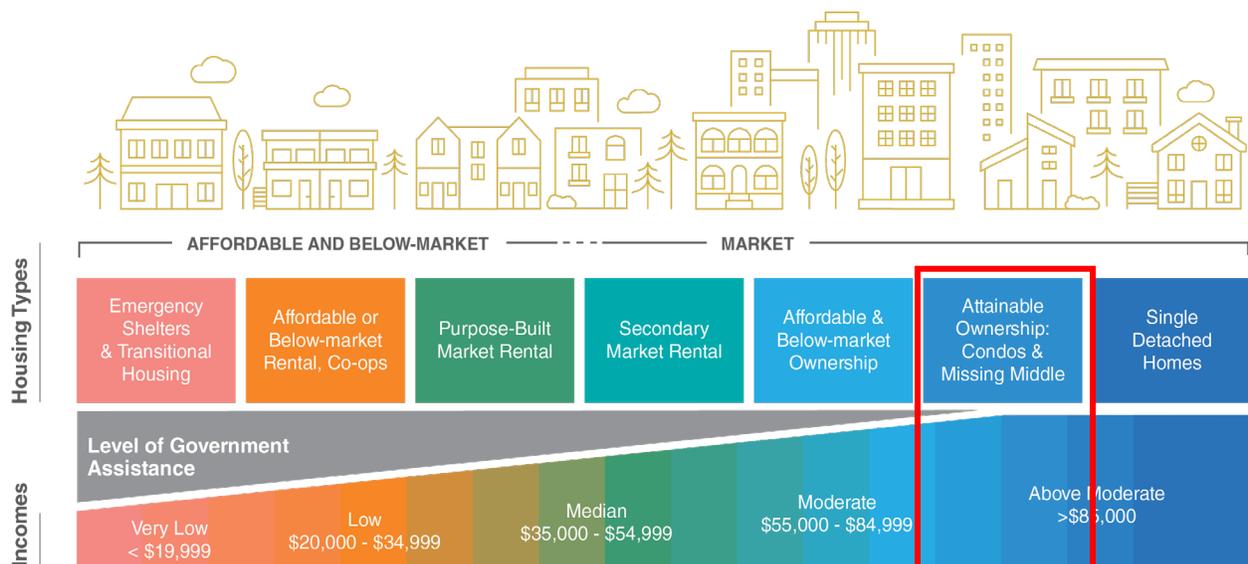


Figure 1. Housing Continuum

Affordability Targets

The application indicates that all four dwelling units would be sold at market rates.

Housing Mix

At present there is no policy that provides targets regarding housing mix and unit type is not regulated or secured. 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 four three-bedroom townhouse units, and could be targeted towards families.

Security of Tenure

A Housing Agreement is not needed to ensure that future Strata Bylaws cannot prohibit the rental of units. Such Strata Bylaws are prohibited by provincial legislation.

Existing Tenants

The subject property does not contain any structures; no Tenant Assistance Plan (TAP) is required.

Development Permit with Variances Application

Official Community Plan: Design Guidelines

The *Official Community Plan* (OCP) identifies this property within Development Permit Area 16A: General Urban Design as well as Development Permit Area 15F: Missing Middle Housing. As the proposal meets the DPA 15F definition of missing middle housing (“two or more self-contained dwelling units”), DPA 15F applies. The proposal aims to integrate more intensive residential development within a Traditional Residential area. However, there are concerns that the following Missing Middle Design Guidelines are not being met:

- Buildings should be oriented towards the fronting street (Pandora Avenue) to maintain front yard patterns, enhance the public street, and contribute to street vitality. Galley style development sites perpendicular to the street are discouraged unless explicitly supported by a neighborhood plan
- Open space should be consolidated to maximize contiguous soil volumes and usable green space
- Building designs and roof forms should minimize impacts on sunlight access to public and private outdoor spaces on adjacent properties
- Buildings should minimize overlook onto adjacent private yards through increased setbacks; mid-block townhouses should transition in scale through varying building height and roof pitch, and modulating facades to match adjacent existing buildings
- Windows into habitable rooms should not face a side yard unless setback approximately 5m from side property line.

Variances

If Council moves this application forward, it is recommended that the new site-specific zone be based on the existing R-2 Zone, Two Family Dwelling District as the proposal more closely resembles the R-2 Zone than Schedule P. Variances would be used to accommodate aspects of the proposal that do not conform with the R-2 Zone. This ensures that reduced zoning permissions are not entrenched in the new zone precluding future Council review and approval. Variances from the R-2 zone would include:

- reduce the minimum rear yard from 14.41m to 4.00m
- reduce the minimum front setback from 7.50m to 6.00m
- reduce the minimum lot width from 15.00m to 13.36m
- increase the height from 7.60m to 10.50m

- increase the number of storeys from 1.5 to 3.

Support for the proposed variances is not recommended, as they would enable a built form that orients the building away from Pandora Avenue. The proposed building orientation as well as the reduced rear yard setback conflict with several Missing Middle Design Guidelines regarding building orientation and street interface, open space, privacy and overlook, and sunlight access.

The applicant has indicated that they are not willing to modify the proposal any further and as a result the recommendation is to decline; however, should Council wish to advance the application an alternate motion has been provided.

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 October 13, 2021, the following sustainability features are associated with this proposal:

- built to a minimum Step Code 3
- each unit will be equipped to include EV (Electric Vehicle) charging stations as well as charging outlets for EV bikes
- perforated screens in front of primary windows will reduce passive solar gain
- each unit will include solar roof panels.

Advisory Design Panel

The application was reviewed by the Advisory Design Panel (ADP) on November 21, 2021. At that meeting, the following motion was passed:

It was moved that (the application) be approved with the following changes:

- *Further reconsideration of the corrugated metal cladding and perforated screening*
- *Further reconsideration of the side yard elevations in terms of materiality, massing, and articulation*
- *Consideration of adding additional trees.*

In response to these comments, the application has made the following revisions:

- Changed the siding material from green-blue corrugated metal to dark stained wood
- Added additional windows to the east side elevation
- Changed location of tree species on landscaping plans.

Tree Preservation Bylaw and Urban Forest Master Plan

This application was received prior to July 21, 2021; therefore, the Tree Protection Bylaw 19-082 applies.

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.

Tree Preservation

A total of five trees were inventoried, of which three are bylaw-protected, two are on-site and one off-site at 1320 Pandora. The remaining two trees are undersized on the subject lot. All trees, including the potential off-site tree NT2 at 1320 Pandora are proposed for removal. The planting plan provided proposes four Replacement Trees of the required six. Under the current proposal, the applicant would be required to pay \$4,000 cash-in-lieu towards the City’s Tree Reserve Fund (\$2,000 X 2 replacement trees not planted). The alternate motion should Council wish to advance this application includes a requirement for the applicant to undertake further analysis of the viability of the additional two required trees prior to scheduling a public hearing. One new municipal tree is proposed on the frontage.

The Fernwood area traditionally has moderate to high canopy cover for the size of the neighborhood at 31.9%. City wide canopy coverage is currently 28%.

Tree Status	Total # of Trees	Trees to be REMOVED	NEW Trees	NET CHANGE
Subject property trees, protected	2	2	4	+2
Subject property trees, unprotected	2	2	0	-2
Neighbouring trees, protected	1	1	2 (TBD)	+1 (TBD)
Neighbouring trees, unprotected	0	0	0	0
Total	5	5	+6 (TBD)	+1 (TBD)

Should Council decide to advance this application, the alternate recommendation includes a condition that prior to Public Hearing, the applicant determine the location of NT2 and provide a letter from the owner at 1320 Pandora which outlines their awareness and agreement to follow the requirements of tree replacement on their property as needed and that the Arborist Report, Civil, and Landscape plans are revised to the satisfaction of the Director of Parks, Recreation, and Facilities to address outstanding Parks comments.

Financial Implications

Summarized in the table below are the annual maintenance costs that would be incurred by the City following the planting of one new street tree.

Increased Inventory	Annual Maintenance
New municipal trees (one net new)	\$75 (TBD)

CONCLUSIONS

The proposal does not conform with relevant DPA 15F design guidelines. The site design and layout do not meet goals of building orientation and street presence, open space, privacy, and sensitive transition to adjacent properties. The site is better suited to a different form of development or would benefit from land assembly to include adjacent lots to allow a building orientation towards the street, as is strongly emphasized in the applicable design guidelines.

ALTERNATE MOTION

Rezoning Application

1. That subject to the following revisions, that Council instructs 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 May 4, 2023 for 1326 Pandora Avenue:
 - a. applicant revising the plans to ensure that a minimum height clearance of 2.1m is met for vehicle parking and access
 - b. the Arborist Report, Civil, and Landscape Plans are revised to the satisfaction of the Director of Parks, Recreation, and Facilities to address outstanding Parks comments including:
 - i. retention of tree NT2, or;
 - ii. or if tree NT2 is to be removed, clarification regarding ownership of the tree and updated plans and documentation to meet the Tree Protection Bylaw
 - iii. Inclusion of proposed municipal tree on civil drawings
 - iv. Site servicing plan showing
 - a. Hardscape surfaces and treatments
 - b. Utility services: sanitary sewer, storm drain, water, gas, BC Hydro, and telecommunications
 - v. Removal of cedar fence from future site triangles
 - vi. Designation of two additional trees as replacement trees.
2. That first and second reading of the zoning bylaw amendment be considered by Council and a public hearing date be set once the above conditions are met.
3. 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. 00767, 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 Variances No. 000594 for 1326 Pandora Avenue, in accordance with plans submitted to the Planning department and date stamped by Planning on October 31, 2022, subject to:
 - a. Proposed development meeting all City zoning bylaw requirements, except for the following variances:
 - i. reduce the minimum front setback from 7.50m to 6.00m
 - ii. reduce the minimum rear setback from 14.41m to 4.00m
 - iii. reduce the minimum lot width from 15.00m to 13.39m
 - iv. increase the height from 7.60m to 10.50m
 - v. increase the number of storeys from 1.5 to 3

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

Respectfully submitted,

Geordie Gordon
Senior 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: Plans date stamped October 31, 2022
- Attachment C: Project Brief received October 13, 2021
- Attachment D: Community Association Land Use Committee Comments dated January 20, 2021
- Attachment E: Pre-Application Consultation Comments from Online Feedback Form