



## Committee of the Whole Report For the Meeting of August 3, 2023

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**To:** Committee of the Whole **Date:** July 20, 2023

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

**Subject:** **Rezoning Application No. 00826 and Development Permit with Variances Application No. 00214 for 970 Walker Street**

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### 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 July 20, 2023 for 970 Walker Street.
2. That first and second reading of the zoning bylaw amendment be considered by Council and a public hearing date be set.
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. 00826, if it is approved, consider the following motion:

- “1. That subject to the adoption of the necessary Zoning Regulation Bylaw amendment, Council authorize the issuance of Development Permit with Variances No. 00214 for 970 Walker Street, in accordance with plans submitted to the Planning department and date stamped by Planning on March 14, 2023, subject to:
  - a. Proposed development meeting all City zoning bylaw requirements, except for the following variances:
    - i. reduce the front setback from 6m to 3.6m;
    - ii. reduce the west side setback from 2.40m (habitable) to 1.50m (habitable);
    - iii. reduce the east side setback from 2.40m (habitable) to 1.50m (habitable); and
    - iv. permit a roof deck.

2. 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 Variances Application. Relevant rezoning considerations include the proposal to construct a single-family dwelling along with a secondary suite (which is not permitted in the existing small lot site zoning), while the 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 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*. 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.

In accordance with Section 498 of the *Local Government Act*, Council may issue a Development Permit with Variance that varies a *Zoning Regulation Bylaw* provided the permit does not vary the use or density of land from that specified in the *Zoning Regulation Bylaw*.

## **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 970 Walker Street. The proposal is to construct a new single-family dwelling with a secondary suite.

The rezoning application is to rezone from the R1-S2 Zone, Restricted Small Lot (Two Storey) District, to a new site-specific zone in order to permit the secondary suite. There is a concurrent Development Permit with Variances Application pertaining to the proposed form, character, exterior design and finishes and variances related to setbacks and a roof deck.

The following points were considered in assessing the Rezoning Application:

- The subject property is designated Traditional Residential in the *Official Community Plan* (OCP, 2012), which supports residential and accessory uses in a wide range of primarily ground-oriented building forms. The proposed use, density and height are consistent with this policy.
- The subject property is in the Northwest Sub-Area of the *Victoria West Neighbourhood Plan* (2018). The proposed height and density are consistent with this policy.

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

- The proposal is not consistent with the Design Guidelines for Development Permit Area 15A: Intensive Residential – Small Lot Development, guidelines for Traditional Residential areas in the *Victoria West Neighbourhood Plan*, and the *Small Lot House Design Guidelines* in terms of integrating residential development in a manner that respects the established character of the neighbourhood. However, it follows a contemporary and innovative approach to design which is encouraged by the *Small Lot House Design Guidelines*.
- Due to the irregular lot shape, there are a number of variances related to setbacks and the proposal also allows a roof deck which is not permitted in the current site zoning. The proposed variances are considered supportable as their impacts are considered minimum.

## **BACKGROUND**

### **Description of Proposal**

The proposal is to construct a single-family home with a secondary suite. The current zone does not permit a secondary suite, therefore, a rezoning application to a new site-specific zone is required. The proposed density is 0.6:1 floor space ratio and the proposed height is 7.50m.

The proposal includes the following design components:

- massing in a north-south orientation
- a rooftop deck for flowers/vegetable planters.

Exterior building materials include:

- wood shingle for the building facade
- cement shingles around the main entrance
- operable casement windows with centre mullions
- metal frame with frosted glass panels for the rooftop deck guardrail.

Landscape materials include:

- four new trees at the rear
- one new boulevard tree
- herb garden
- permeable pavers for the parking area
- pea gravel for the pathway leading to the rear yard garden
- wooden fence along the perimeter of the property.

It is recommended that a site-specific zone be drafted should Council choose to advance the application. However, in a number of instances, variances are recommended (instead of inclusion in the new zone), to ensure that if this proposal is not built, that Council review and consideration would be required again, should a different proposal be advanced in the future.

The proposed variances are to:

- reduce the front setback from 6m to 3.6m
- reduce the west side setback from 2.40m (habitable) to 1.50m (habitable)
- reduce the east side setback from 2.40m (habitable) to 1.50m (habitable)
- permit a roof deck.

### Land Use Context

The area is characterized by a mix of single-family dwellings and few duplexes.

Immediately adjacent land uses include:

- North – two storey single-family home (722 Pine Street)
- South – two storey single-family home (973 Walker Street)
- East – parking garage of a single-family home (720 Pine Street)
- West – two storey single-family home (968 Walker Street)



Figure 1. Aerial Map

### Existing Site Development and Development Potential

The subject property is currently a vacant lot.

Under the current R1-S2 Zone, Restricted Small Lot (Two Storey) District the property could be developed as a single-family dwelling.

## Data Table

The following data table compares the proposal with the existing R1-S2 Zone. An asterisk is used to identify where the proposal does not meet the requirements of the existing Zone. Key information from the OCP and Victoria West Neighbourhood Plan are also provided in the table.

Zoning Criteria	Proposal	R1-S2, Restricted Small Lot (Two Storey) District	OCP & Victoria West Neighbourhood Plan
Site area (m <sup>2</sup> ) – minimum	260	260	-
Secondary Suite	<b>Yes*</b>	Not Permitted	Permitted
Basement	Yes	Permitted	-
Roof Deck	<b>Yes*</b>	Not Permitted	-
Density (Floor Space Ratio) – maximum	0.60	0.60 to 1	1.1:1
Total floor area (m <sup>2</sup> ) – maximum	154	190	-
Lot width (m) – minimum	11.10	10	-
Height (m) – maximum	7.50	7.50	7.6m to 8.2m
Storeys – maximum	2	2	2 to 2.5
Site coverage (%) – maximum	32	40	-
<b>Setbacks</b> (m) – minimum			
Front (Walker)	<b>3.60*</b>	6	3.5 to 6
Rear	6	6	-
Side (west)	<b>1.50* habitable</b>	1.50 (non-habitable) 2.40 (habitable)	1.5
Side (east)	<b>1.50* habitable</b>	1.50 (non-habitable) 2.40 (habitable)	1.5
Parking – minimum	1	1	-
Driveway/parking slope (%) (max.)	6	8	-

## Accessibility

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

## Public Realm

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

## Community Consultation

Consistent with the Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications, the applicant consulted the Victoria West CALUC at a Community Meeting held on February 16, 2022. The proposal was also posted on the Development Tracker along with an invitation to complete a comment form within the 30-day comment period. The 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 summary of the meeting as well as the pre-application comment forms are attached to this report. All six responses which were mostly from owners further away from the subject property indicated some level of concern with themes related to the presence of a roof deck, design of the building not sensitively transitioning to the neighbours, presence of a secondary suite and loss of parking on the street. In response, the applicant has made minor design revisions such as changes to materials and window shape and setback the roof further away from the edges with the use of planters, so as to mitigate privacy concerns.

In accordance with the City's *Small Lot House Rezoning Policy*, the applicant has polled the immediate neighbours and reports that 100% support the application. Under this policy, "satisfactory support" is considered to be support in writing for the project by 75% of the neighbours. The required Small Lot House Rezoning Petitions, Summary and illustrative map provided by the applicant are attached to this report.

## ANALYSIS

### Rezoning Application

#### Official Community Plan (OCP)

The OCP Urban Place Designation for the subject property is Traditional Residential, which supports ground-oriented residential uses such as single, duplex and attached dwellings. The OCP states that new development may generally have a density of up to 1:1 FSR. The proposal is for a two-storey residential building at 0.6 FSR and is therefore within the height and density envisaged for this urban place designation. 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 will be based on an evaluation of the context in addition to consistency with OCP policies, other relevant City policies and local area plans.

In terms of place character, the OCP envisions front and rear yards with variable setbacks and buildings oriented to face the street. Houses that accommodate variable landscaping, street tree planting, and individual driveways are key place character features of Traditional Residential Areas. The proposed development provides landscaping in the rear yard space and has an individual driveway and parking area that can accommodate one vehicle at the front. The area in which the proposal does not meet the OCP guidelines is in the unit entrance not being oriented to face the street. However, it is to be noted that the unit entrance is located at the front of the

building and the entry is reinforced through architectural elements such as a recessed wall, and variation in material and color from the rest of the building.

### Victoria West Neighbourhood Plan

The *Victoria West Neighbourhood Plan* (2018) identifies the site as Traditional Residential, consistent with the OCP. As per the *Victoria West Neighbourhood Plan*, the subject site is within the Northwest Sub-Area which is characterized by generally small lots (which may have secondary suites) and a pattern of older houses in various styles along tree-lined streets. Infill which respects the existing lot pattern is encouraged in this sub-area. The plan envisions new development up to two and half storeys up to approximately 7.6 to 8.2 metres which the proposal is consistent with.

Specific form and character objectives for new residential development within Traditional Residential areas in the Victoria West Neighbourhood that the proposal meets include:

- site planning which results in rear yards whose appearance is dominated by landscape
- supporting livability and access to usable outdoor space for individual living units by providing a landscaped rear yard and roof top deck.

Specific form and character objectives for new residential development within Traditional Residential areas in the Victoria West Neighbourhood that the proposal does not meet include:

- unit entrance – achieving street-fronting buildings which present a friendly face to the street with front entries visible from the street
- neighbourhood character – encouraging building design which relates to existing context, with attention to streets or areas with a strong pre-existing character.

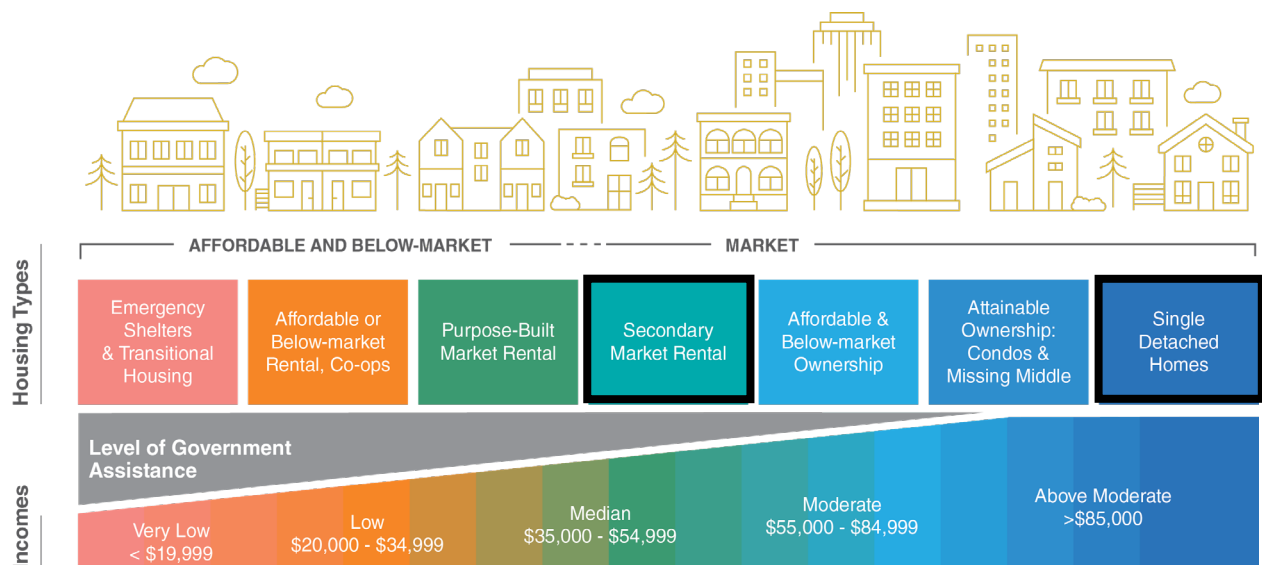
The applicant's response to the above-listed discrepancies are:

- unit entrance – while the front entrance door does not face the street it is technically on the front of the building and uses architectural details such as a recessed wall, variation in color and material and lighting to reinforce the entrance
- neighbourhood character – the immediate context is difficult to draw from architecturally with a single-family dwelling that recently had a house fire to the west at the time this application was submitted, and a garage to the east.

Staff are satisfied with the responses received from the applicant.

### Housing

The proposal consists of a single-family dwelling unit with a secondary suite. The application, if approved, would add two 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 2. Housing Continuum**

### *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 a single-family dwelling unit with a secondary suite.

### *Security of Tenure*

The proposal is for a single-family dwelling unit with a secondary suite.

### *Existing Tenants*

There are no existing tenants on the subject property.

## **Development Permit with Variance Application**

### Official Community Plan: Design Guidelines

The *Official Community Plan* (OCP) identifies this property within Development Permit Area (DPA) 15A: Intensive Residential Small Lot. The objectives of DPA 15A are:

- *“to accommodate housing growth in Traditional Residential areas in a manner that is gradual, of a small scale and adaptive to the local contexts*
- *to integrate more intensive residential development in the form of single family dwellings on relatively small lots within existing Traditional Residential areas in a manner that respects the established character of the neighbourhoods*
- *to achieve a high quality of architecture, landscape and urban design to enhance neighbourhoods.”*



While the proposal provides quality of architecture and landscape design, the proposal is inconsistent in providing a building that is compatible with the character of the neighbourhood, as detailed in the section below.

### *Small Lot House Design Guidelines*

The purpose of the *Small Lot House Design Guidelines* is to establish design principles that would result in new small lot single family detached housing that are more sensitive to existing houses and neighbourhoods. Design principles are:

- streetscape/neighbourhood – to develop a design that relates to the visual character of the immediate and broader context of the neighbourhood
- elements of design – to identify repeated forms, patterns and rhythms inherent in the existing surrounding houses
- roof form pattern – to incorporate a roof form that relates in style and slope to the existing streetscape
- massing and proportion – to reflect building proportion established in the neighbourhood
- entryways – to orient entryways to be apparent and clearly visible from the street
- windows – to approximate the proportion, size and detailing and composition of windows to that of neighbours
- finishes and materials – to utilize exterior finishes and materials that are visually compatible and aid in harmonizing the new house with the existing homes
- colour – to encourage colour schemes, which are compatible with the neighbourhood.

The proposal does not meet the above small lot design guidelines as follows:

- streetscape/neighbourhood – the street and the immediate neighbourhood have houses that follow traditional architecture while the proposal advances a contemporary style
- elements of design – the proposed building incorporates some rectangle windows similar to neighbouring buildings, but does not significantly utilize other repeated forms of architecture observed in the neighbourhood
- roof form pattern – all buildings in the immediate neighbourhood have traditional peaked roofs while the proposal incorporates a flat roof with a roof top amenity
- entryways – most buildings have entrances facing the street; while the proposal does not have an entrance facing the street, the entrance is located at the front of the building and uses architectural details and color (and lighting (soffit spotlights and sconces) to reinforce entry
- windows – the buildings in the immediate neighbourhood have windows that are typically rectangular, single-hung windows with muntins or mullions. The proposal incorporates some operable rectangular casement windows with mullions but also incorporates large semi-circular windows which are not observed as a dominant feature in the neighbourhood
- finishes and materials – the buildings in the immediate neighbourhood are largely clad in horizontal and vertical siding, stucco and concrete while the proposal incorporates wood shingle and cement shingle.

It was suggested that the applicant consider a building design more consistent with the design guidelines. The applicant has proceeded with the current design citing Section 1.0 of the *Small Lot House Design Guidelines* which states that:

*“Proponents of small lot housing are encouraged to seek new, innovative and appropriate design solutions. Each site will have its own unique challenges. The proposal should not be restricted to the confines of traditional architecture. Opportunities for contemporary design should not be precluded.*

*The Guidelines are intended to stimulate the imagination of designers rather than to limit development flexibility or to dictate actual design solutions.*

*In some neighbourhoods, visual character is clearly defined and there is little flexibility to do something ‘different’ and contrary to existing patterns. However, in Victoria there is great variety and richness in the visual character of the various neighbourhoods, often from street to street. Thus, in many circumstances, the house designer will be presented with unique and unusual design opportunities. There will be some neighbourhoods where major changes are acknowledged to be taking place and/or where the existing streetscape has little ‘visual cohesiveness’. In these circumstances, it may be appropriate for the designer not to harmonize with the existing but to set new standards”.*

Due to the above small lot policy consideration and that the existing streetscape on which the building is located comprises of a parking garage, a burnt single-family home on the corner lot and some traditional single-family homes, on balance, staff find this application supportable.

## Variances

### *Setbacks*

The applicant proposes a reduced front setback from 6m to 3.6m. The subject property is a corner lot and considered irregular shaped and as such, the general regulation 27(1) requires the front yard to be calculated by inscribing the largest rectangle by area within the lot which is the 3.6m setback. This is consistent with the front yard setback envisioned in the *Victoria West Neighborhood Plan* which is 3.5 to 6m. Therefore, this is considered supportable.

Reduced side yard setbacks (on both sides of the new building) are also proposed, reducing the setbacks from 2.40m (for habitable windows) to 1.50m. Proposed windows on east and west elevations are minimal and located high on exterior wall for privacy and to allow for passage of natural light. East and west entry doors contain glazing to again allow for natural light. Fencing at 4ft (1.2m) and 6ft (1.8m) heights further adds another layer so that neighbour’s privacy is respected. The applicant has submitted window overlay drawings that satisfactorily demonstrate that the proposed side windows would not result in a loss of privacy for neighbours. Therefore, the proposed side yard setback variances are also considered supportable.

### *Roof Deck*

The building proposes to have a roof deck for vegetable/flower planters and maintenance of solar panels. There is significant topography change within the vicinity of Walker Street with the grade increasing steeply from west to east. The applicant has provided drone photographs that reveal minimal impact to neighbours. The design for the roof deck further offsets views. The planters are 1.8m in width and run along the perimeter of the roof, with exception of roof access locations.

This offset is further defined by a 42-inch-high frosted glass guardrail. This design approach pulls occupants further back from edges of the roof and helps control overlook impacts.

### 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 after July 1, 2021, so Tree Protection Bylaw No. 21-035 applies.

Two bylaw protected trees and three non-protected hedges have been inventoried. The trees and two hedges are located on the subject lot and one hedge is located off-site. There are currently no municipal trees on the frontage.

Bylaw protected trees No. 1320 (18/18/14 cm diameter multiple-stemmed Juniper) and No. 1321 (45 cm diameter Arbutus), and both hedges on the subject lot are proposed for removal. Removal of the trees and hedges is required for construction of the building. The off-site hedge can be retained following the mitigation measures outlined in the tree protection plan.

The landscape plans show three new trees for this development, which will replace bylaw protected trees being removed. In addition, one municipal tree is proposed on the Walker Street frontage.

### Tree Impact Summary Table

Tree Status	Total # of Trees	To be REMOVED	To be PLANTED	NET CHANGE
On-site trees, bylaw protected	2	2	3	+1
On-site trees, not bylaw protected	0	0	0	0
Municipal trees	0	0	1	+1
Neighbouring trees, bylaw protected	0	0	0	0
Neighbouring trees, not bylaw protected	0	0	0	0
<b>Total</b>	2	2	4	<b>+2</b>

## **CONCLUSIONS**

The proposal to construct a single-family dwelling with a secondary suite is consistent with the policy intent of the *Victoria West Neighbourhood Plan* and some of the design guidelines. However, it is worth noting that there are areas in which the proposal is inconsistent in meeting the *Victoria West Traditional Residential Area* design guidelines, the *Small Lot House Design Guidelines* and the objectives of *Development Permit Area (DPA) 15A: Intensive Residential Small Lot*.

However, on balance and in line with the *Small Lot House Design Guidelines*, where proponents are encouraged to seek new, innovative and contemporary design, not restricted to the confines of traditional architecture, staff recommend that application is supportable.

### **ALTERNATE MOTION**

That Council decline Rezoning Application No. 00826 and Development Permit with Variances Application No. 00214 for the property located at 970 Walker Street.

Respectfully submitted,

Manasvini Thiagarajan  
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 March 14, 2023
- Attachment C: Letter to Mayor and Council dated March 10, 2023
- Attachment D: Small Lot House Rezoning Petition dated February 26, 2023
- Attachment E: Landscape Plans dated March 14, 2023
- Attachment F: Pre-Application Consultation Comments from Online Feedback Form