



Committee of the Whole Report

For the Meeting of September 14, 2023

To: Committee of the Whole **Date:** August 25, 2023

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

Subject: Rezoning Application No. 00778 for 3145 Balfour Avenue and Development Permit with Variances Application No. 00171 and Development Permit No. 635

RECOMMENDATIONS

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 August 25, 2023 for 3145 Balfour Avenue.
2. That, pursuant to Section 30 of the *Land Use Procedures Bylaw*, Council waives the requirement for the holding of a public hearing.
3. That after publication of notification in accordance with Section 467 of the Local Government Act, first, second, third and fourth reading of the Zoning Bylaw Amendment be considered by Council.
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 (Small Lot)

That Council, after giving notice 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. 00171 for 3145 Balfour Avenue, in accordance with plans submitted to the Planning department and date stamped by Planning on December 19, 2022, subject to:
- a. Proposed development meeting all City zoning bylaw requirements, except for the following variance:
 - i. reduce the rear yard setback from 6.0m to 2.54m;

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

Development Permit (Panhandle Lot)

That Council consider the following motion:

- “1. That subject to the adoption of the necessary Zoning Regulation Bylaw amendment, Council authorize the issuance of Development Permit No. 00635 for 3145 Balfour Avenue for the subdivision of the panhandle lot and subsequent construction of a single family dwelling, in accordance with plans submitted to the Planning department and date stamped by Planning on December 19, 2022.
2. That the Development Permit, if issued, lapses two years from the date of this resolution.”

LEGISLATIVE AUTHORITY

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 *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.

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 and Development Permit for the property located at 3145 Balfour Avenue. The proposal is to rezone a portion of the lot from the R1-B Zone, Single Family Dwelling District to the R1-S2 Zone, Restricted Small Lot (Two-Storey) District, in order to place the existing single-family dwelling on a new small lot and create a new panhandle lot for a new single-family dwelling with a suite.

There is a concurrent Development Permit with Variance Application pertaining to changes to the rear (east) elevation of the existing house and includes a rear yard setback variance.

There is also a concurrent Development Permit for the panhandle subdivision and for the proposed form, character, exterior design, finishes and landscaping for the new single-family dwelling with suite on the panhandle lot.

The following points were considered in assessing the Rezoning Application:

- The proposal is consistent with the Traditional Residential Urban Place Designation in the *Official Community Plan (OCP, 2012)*
- The proposal is consistent with the housing objectives and policies within the *Burnside Gorge Neighbourhood Plan (2017)*, which encourages ground-orientated housing in the Gorge Residential Sub-Area
- The proposal is generally consistent with the design guidelines in the *Small Lot House Design Guidelines (2002)* for the small lot house (existing house) with respect to density and consistency with neighbourhood form and character
- One variance is required for the rear yard setback of the small lot house. This setback variance is required due to the creation of a new interior lot line. While the existing house meets the required rear yard setback from the building face, a variance is required for the placement of new stairs. This minor variance is supportable
- The proposal is generally consistent with the panhandle guidelines, which reference the *Small Lot House Design Guidelines (2002)*. The size of the lot and the design and placement of the new single-family dwelling with suite on the panhandle lot limits privacy impacts on adjoining properties and the existing landscaping of the panhandle lot is preserved and enhanced.

BACKGROUND

Description of Proposal

This proposal is to rezone from the R1-B Zone, Single Family Dwelling District, to the R1-S2 Zone, Restricted Small Lot (Two Storey) District, in order to subdivide the property. The exiting house would be placed in the small lot zone and a new house with a suite will be constructed on the remainder (panhandle lot) and remain in the R1-B Zone.

The Development Permit with Variance Application considers the small lot house, with one variance from the standard small lot zone for the existing house to accommodate stair placement.

A Development Permit Application is required for the creation of the panhandle lot and the construction of a new single-family dwelling with a suite.

Specific details include:

- Subdivision of the subject property into two lots: one small lot with the existing house and one panhandle lot.
- Construction of a new single storey dwelling with a suite on the panhandle lot. The *Small Lot Design Guidelines (2002)* are applicable to the proposed form, character, exterior design, finished and landscaping for the new single-family dwelling with a suite. Details of the Development Permit are discussed in this report.
- The existing house will be retained, and portions of the lower floor and the rear deck will be reconstructed. The *Small Lot Design Guidelines (2002)* are applicable to this lot. Details of the Development Permit and the Variances are discussed in this report.
- The driveway access for the new panhandle lot will be on the south side of the lot, and a surface EV parking stall will be provided.
- This new driveway requires the removal of two Juniper trees (one is bylaw protected). Areas for replacement trees have been identified.
- Landscaping standards are applicable to both lots and include retention of a hedge along the south lot line to maintain privacy of adjoining lot. New plant material includes

six new trees and an extensive landscape border along the eastern boundary of the parcel along with a small raingarden. Lawn areas will be maintained and enhanced. All units have access to private outdoor space.

Land Use Context

The area is characterized by single family homes on a mix of lot sizes. There are five lots on the east side of Balfour Street that are larger (900 m² or more) than those in the surrounding area. The area also has a number of lots that are less than 400 m² contributing to a variety of lot sizes and housing sizes in the immediate area.



Existing Site Development and Development Potential

The site is presently used as a single-family home. Under the current R1-B Zone, the property could be developed for a single-family home with a suite.

Data Table for Existing House (Lot A) – Small Lot

The following data table compares the proposal with the R1-S2, Restricted Small Lot (Two Storey) District. An asterisk is used to identify where the proposal is less stringent than the existing zone. One variance is related to the rear yard setback due to the creation of the new interior lot line.

Zoning Criteria	Proposal	Zone Standard R1-S2
Site area (m ²) - minimum	380	260
Density (Floor Space Ratio) - maximum	0.48:1	0.6:1
Total floor area (m ²) - maximum	185	190
Lot width (m) - minimum	17.5	10
Height (m) - maximum	5.34	7.5
Storeys - maximum	2	2
Site coverage % - maximum	32	40
Setbacks (m) – minimum		
Front	8.04	6.0
Rear	6.0 (building)	6.0
	2.54 (stairs)*	
Side (north)	1.57 (deck) 2.46 (building)	1.5 non-habitable rooms 2.4 habitable rooms
Side (south)	1.8 (no windows)	1.5 non-habitable rooms 2.4 habitable rooms
Parking - minimum	1	1

Data Table for Panhandle Lot (Lot B)

The following data table compares the proposal with the existing R1-B Zone and Schedule H Panhandle Regulations. There are no variances associated with this application.

Zoning Criteria	Proposal	Zone Standard R1-B Schedule H
Site area (m ²) - minimum	607 (excludes driveway)	600 (excludes driveway)
Density (Floor Space Ratio) - maximum	n/a	n/a
Total floor area (m ²) - maximum	262.4	280

Zoning Criteria	Proposal	Zone Standard R1-B Schedule H
Lot width (m) - minimum	21.54	18
Height (m) - maximum	4.55	5
Storeys - maximum	1	1
Site coverage % - maximum	24.98	25
Setbacks (m) – minimum		
Front (west)	7.52	7.5 m building setback for walls with windows to habitable rooms 4.0 m for non-habitable rooms
Rear (east)	8.67	
Side (north)	4.01	
Side (south)	4.05	
Parking - minimum	1	1

Note: Habitable room means a room in a dwelling unit other than a kitchen, storage room, toilet, sauna room, hallway or stairway.

Housing

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*. The units would be market housing falling in the category of single detached homes.

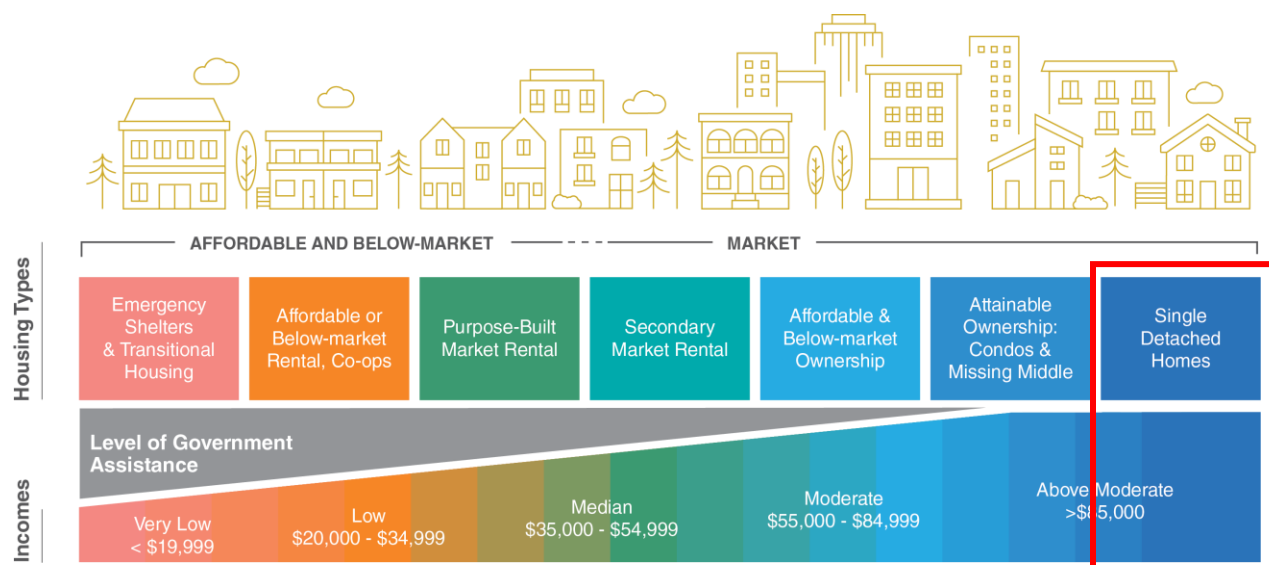


Figure 1. Housing Continuum

Mobility

No sustainable mobility improvements beyond minimum City standards are proposed in association with this application.

Public Realm

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

Accessibility

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

Sustainability

The applicant has not identified any sustainability features associated with this proposal.

Community Consultation

The Burnside Gorge Community Association waived the CALUC pre-application meeting (letter dated June 4, 2021).

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.

In response to the consultation the applicant has acknowledged the comments from the adjacent neighbour located at 300 Doric Street, and the plans have incorporated their comments. This neighbour has requested that the view corridor to Balfour Avenue be maintained, and this has been achieved with attention to fence height and landscaping.

Pursuant to section 464(2) of the Local Government Act, Council may choose to not hold a public hearing where an application is consistent with the OCP. However, notice must still be sent to all owners and occupiers of adjacent properties as specified in the City's Land Use Procedures Bylaw advising that the public hearing is being waived prior to introductory readings of the bylaws. Should Council wish to hold a public hearing, an alternate motion has been provided at the end of 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* (OCP) designates the property within the Traditional Residential Urban Place Designation, which envisions ground-oriented residential uses with densities up to 1:1 Floor Space Ratio (FSR). The proposed small lot would be subject to Development Permit Area 15A: Intensive Residential - Small Lot and the panhandle lot is subject to the Development Permit Area 15B: Intensive Residential – Panhandle Lot.

Burnside Gorge Neighbourhood Plan (2017)

The subject parcel is within the Gorge Residential Sub-Area, which encourages appropriate intensification through primarily ground oriented forms of housing within the Traditional Residential areas of Burnside Gorge. A range of housing appropriate within Traditional Residential OCP designations is encouraged, while maintaining the established neighbourhood character.

The proposal is generally consistent with the neighbourhood plan. The proposal meets the overall housing objectives in compatibility with the established scale and character of adjacent and nearby housing.

Development Permit with Variance Application (Small Lot)

The proposal is subject to Development Permit Area: 15A Small Lot House Design Guidelines and is generally consistent with the objectives to integrate a single-family dwelling within Traditional Residential areas in a manner that is compatible with and respects the established character of the neighbourhoods.

As the existing house would be retained, the street frontage will remain the same, with some potential changes anticipated to cladding and windows. The proposed changes to the rear of the dwelling will not be visible from the street. These changes include removal of a portion of the building and a new deck.

The existing house will maintain adequate outdoor living space with a deck accessed off the upper living area and a ground floor patio and lawn area in the front and the back. Shrubs will be planted on the rear lot line between the two dwellings to provide a privacy screen.

Rear Yard Variance

One variance is being proposed to reduce the rear yard setback for the existing house from 6.0m to 2.54m. This variance results from the creation of the new lot line and is measured to the rear steps on the rear of the building (east elevation) with the remainder of the building setback the required 6.0 m. As noted, this section of the building will be renovated, and a new deck and stairs will be constructed to provide access to the rear yard. These changes will add to the functionality of the existing residence and provide access to the exterior.

The reduced rear yard setback would have some impact on privacy between the existing building and the proposed panhandle single-family dwelling; however, there would be no negative impacts to adjacent neighbours.

This minor variance is supportable.

Development Permit Area and Design Guidelines (Panhandle Lot)

As the proposal is for a panhandle lot, the proposal is subject to Development Permit Area 15B: Intensive Residential – Panhandle Lot. The objectives of this designation include:

- to preserve the Traditional Residential character by ensuring that panhandle lots are integrated and compatible with the immediate and wider context
- to achieve a high quality of architecture, landscape and urban design to mitigate any negative impacts of panhandle lots.

In order to achieve these objectives, the *Design Guidelines for Small Lot House* are applied to panhandle lots. The focus of these guidelines is to use a 'good neighbour' design approach in relation to privacy, landscaping, sunlight, view and parking.

The proposed new dwelling on the panhandle lot will not be visible from the street; therefore, the focus of the review is on the design approach in relation to privacy, landscaping, view and parking.

With respect to privacy, the existing residence will have the closest proximity to the proposed single-family dwelling (approximately 14 m distance between the two residences). The privacy impact of the new single-family dwelling on the existing residence will be minimal due to the height of the proposed house (one storey); however, the existing residence will have some overlook potential into the proposed lot due to the placement of windows and height of the existing building. A landscape buffer is proposed between the two residences.

With respect to adjacent properties, there are three neighbouring backyards facing the subject property:

- There are minimal privacy impacts on the property to the north (3155 Balfour) as the proposed building has one bathroom window on that elevation.
- The retention of a mature Cypress hedge along this south property line creates a privacy screen between the new panhandle dwelling and the property to the south (3135 Balfour). In addition, there are no main floor windows on this elevation facing 3135 Balfour.
- The neighbouring property to the east (300 Doric Street) has requested that the fence height remain as existing to maintain the view corridor to Balfour Street. The proposed fence height in this location is 1.2 m, which is similar to the existing situation. The landscaping along this interface will also be enhanced.

Other landscape features include permeable pavers for the proposed patios and small raingarden in the rear yard of the new panhandle lot. Lawns will be maintained or established.

The driveway access to the panhandle lot is along the southern lot line and includes a landscape strip in the centre of the drive aisle to reduce concrete. One parking stall is provided with an EV charger, and adequate turning space is provided to allow for safe vehicle exiting.

The materials for the new one storey dwelling consist of concrete fibre board siding, an asphalt shingle roof and a front entry porch framed with stone veneer posts. The main dwelling has three bedrooms plus and office space, and the lower-level suite has two bedrooms. Both units have private outdoor space.

A shadow study has been provided. As the proposed dwelling is one level, shadow impacts on adjoining properties are limited.

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 October 24, 2019, so it falls under *Tree Preservation Bylaw No. 05-106* consolidated November 22, 2019. The current canopy cover for the Burnside neighbourhood is 14.6%; for context, city wide canopy cover is 26%.

Tree Impact Summary

A total of 23 trees were inventoried in proximity to the proposed development area. This includes one municipal tree, one bylaw-protected tree on the subject property, and one on the neighbouring property. The remaining 18 trees are part of a shared hedge along the south property line. The hedge contains 18 individual trees, of which, 12 are bylaw-protected.

Two juniper trees are proposed to be removed for the construction of the driveway; one is bylaw-protected. The landscape plan shows two replacement trees as required by the bylaw. All other trees are proposed to be protected and retained.

Tree Status	Total # of Trees	Trees to be REMOVED	NEW Trees	NET CHANGE (new trees minus total to be removed)
Subject property trees, protected	1	1	2	+1
Subject property trees, unprotected	1	0	0	0
City trees	1	0	0	0
Neighbouring trees, protected	1	0	0	0
Neighbouring trees, unprotected	1	0	0	0
Shared trees, protected	12	0	0	0
Shared trees, unprotected	6	0	0	0
Total	23	1	2	+1

Bylaw protected trees being removed from subject property:

ID#	Species	DBH	Health	Structural condition	Reason for Removal/ Comments
No ID	Juniper species (Tree form)	39	Fair	Fair	Lot B access – Panhandle access / driveway

CONCLUSIONS

The proposed new lot is consistent with general planning direction for the area and Schedule H Panhandle Regulations in the *Zoning Regulation Bylaw* and no variances are proposed for the new lot. The proposed design of the new single-family dwelling is in keeping with the general character of the neighbourhood and provides a two-bedroom rental suite. The rear yard setback variance for the existing building is considered supportable as this does not impact adjacent neighbours. For these reasons, staff recommend for Council's consideration that the application be supported.

ALTERNATE MOTIONS

Option 1 – Hold a Public Hearing

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 August 25, 2023, for 3145 Balfour Avenue.
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 (Small Lot)

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. 00778, 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. 00171 for 3145 Balfour Avenue, in accordance with plans submitted to the Planning department and date stamped by Planning on December 19, 2022, subject to:
 - b. Proposed development meeting all City zoning bylaw requirements, except for the following variance:
 - ii. reduce the rear yard setback from 6.0m to 2.54m;
2. That the Development Permit with Variances, if issued, lapses two years from the date of this resolution.”

Development Permit (Panhandle Lot)

That Council, after the public hearing for Rezoning Application No. 00778, 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 No. 00635 for 3145 Balfour Avenue for the subdivision of the panhandle lot and subsequent construction of a single family dwelling, in accordance with plans submitted to the Planning department and date stamped by Planning on December 19, 2022.
2. That the Development Permit, if issued, lapses two years from the date of this resolution.”

Option 2 - Decline

That Council decline Rezoning Application No. 00778 for the property located at 3145 Balfour Street.

Note: If the Rezoning Application does not move forward, then the Development Permit Applications do not proceed.

Respectfully submitted,

Lucina Baryluk
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 December 19, 2022
- Attachment C: Letter from applicant to Mayor and Council dated December 19, 2022
- Attachment D: Arborist Report from South Shore Forest Consultants revised to June 12, 2021
- Attachment E: Community Association Land Use Committee Comments waiving the community meeting dated June 4, 2021
- Attachment F: Small Lot Petitions and Summary