



Council Report

For the Meeting of December 14, 2023

To: Council **Date:** December 7, 2023
From: Karen Hoesel, Director, Sustainable Planning and Community Development
Subject: **1737 Rockland Avenue: Rezoning Application No. 00755 and Heritage Designation Application No. 000195**

RECOMMENDATION

1. That Heritage Designation Bylaw No. 23-089 be given first and second readings.

Rezoning Application

1. **That, after publication of notification in accordance with section 467 of the Local Government Act, first, second and third reading of the zoning regulation bylaw amendment be considered by Council.**
2. That following the third reading of the zoning amendment bylaw, the applicant prepare and execute the following legal agreement, with contents satisfactory to the Director of Engineering, Transportation and Public Works, and form satisfactory to the City Solicitor prior to adoption of the bylaw:
 - a. A Road Dedication for highway purposes as indicated on the plans date stamped June 14, 2023.
3. **That adoption of the Zoning Regulation Bylaw amendment will not take place until:**
 - a. **third reading of Heritage Designation Bylaw No. 23-089 and**
 - b. the required legal agreement that is registrable in the Land Title Office has been so registered to the satisfaction of the City Solicitor.
4. That the above recommendation 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 Variances Application

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 Variance Application No. 000226 for proposed Lot 2, 1737 Rockland Avenue, to allow the subdivision of a

Panhandle Lot in accordance with plans submitted to the Sustainable Planning and Community Development Department and date stamped on June 14, 2023, subject to:

- a) The proposed development meeting all zoning bylaw requirements, except for the following variances:
 - i. increase the height from 5.00m to 6.60m for Building A
 - ii. increase the number of storeys from 1 to 1.5 for Building A
 - iii. decrease the west setback (habitable window) from 7.50m to 2.27m for Building A
 - iv. increase the height from 5.00m to 5.30m for Building B
 - v. increase the number of storeys from 1 to 2 for Building B
 - vi. decrease the north setback (habitable window) from 7.50m to 1.50m for Building B
 - vii. increase maximum fence height from 1.8m to 2.4m.
2. **That pursuant to section 512(2) of the Local Government Act, Council exempts the existing property at 1737 Rockland Avenue as well as the new proposed lot to be created by subdivision, as generally shown in the plans submitted to the Planning department and date stamped by Planning on June 14, 2023, from the minimum frontage requirements of section 512(1) at the time of subdivision.**
3. The Development Permit lapsing two years from the date of this resolution.”

PURPOSE

The purpose of this report is to provide Council with an update on the concurrent rezoning application and development permit with variance application, as well as, the associated heritage designation for 1737 Rockland Avenue. The recommendation provided for Council’s consideration will allow the applications to advance in accordance with recent changes to Provincial legislation regarding public hearings for rezoning applications and also includes an exemption on frontage requirements for the associated panhandle subdivision. Changes from the previous motion are shown in bold text.

BACKGROUND

At the Special Committee of the Whole meeting on June 29, 2023, Council considered the applications and adopted a resolution to prepare the necessary bylaws and schedule a public hearing for the application.

Heritage designation bylaw (No.23-089) to designate the property located at 1737 Rockland Avenue is attached to this report.

Royal Assent of Bill 44

On November 30, 2023, Provincial Bill 44, Housing Statutes (Residential Development) Amendment Act, 2023 (Bill 44) was given Royal Assent. Most of the provisions of Bill 44 will come into force with the passage of regulations; however, section 5 of the Bill, which amends Section 464 of the *Local Government Act*, came into force on November 30th. Section 5 provides that local governments are prohibited from holding a public hearing on a proposed zoning bylaw if the bylaw is consistent with the Official Community Plan (OCP), and the bylaw’s purpose is to permit a residential development. Bill 44 did not prohibit holding a public hearing for heritage designation bylaws and the LGA still requires a public hearing for heritage designation bylaws.

Given the rezoning application for 1737 Rockland Avenue is considered consistent with the OCP, a revised recommendation pertaining to the Zoning Regulation Bylaw amendment has been provided to replace the original motion with the revised portions of the motion shown in bold, which will remove the requirement for a public hearing for the zoning amendment while still requiring a public hearing for the heritage designation bylaw prior to final adoption of the Zoning Regulation Bylaw amendment.

Exemption from Subdivision and Servicing Requirements

Section 512 of the *Local Government Act* requires that a parcel being created through subdivision, which fronts on a highway, must have a minimum frontage of at least ten percent of the perimeter of the lot, even if the local government permits less than this minimum through a Development Variance Permit to or a site-specific Rezoning of the *Zoning Regulation Bylaw*. However, the provincial legislation enables Council to exempt a parcel from this minimum requirement as part of consideration of a land use application.

The motion approved on July 13, 2023, did not include the exemption needed to facilitate the proposed panhandle lot subdivision. A revised recommendation pertaining to the Development Permit with Variances Application, which includes this exemption (shown in bold text), has been provided to replace the original motion.

CONCLUSION

That Council consider the revised recommendation that would give introductory readings to the heritage designation bylaw and advance the rezoning application without a public hearing consistent with current legislation.

Respectfully submitted,

Patrick Carroll
Senior Planner
Sustainable Planning and Community
Development Department

Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager.

List of Attachments

Attachment B: Heritage Designation Bylaw No. 23-089