



Council Report

For the Meeting of December 7, 2023

To: Council **Date:** December 6, 2023

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

Subject: **Update on Rezoning Application No. 00807 and associated Development Permit with Variances Application No. 00255 for 515 Foul Bay 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 October 10, 2023 for 515 Foul Bay Road.
2. **That, pursuant to section 464(3) of the *Local Government Act*, Council cannot hold a public hearing on this proposed development.**
3. **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 once the following conditions are met:**
 - a. plan revision to reduce the space dedicated to vehicle parking at the site's entrance to the satisfaction of the Director of Sustainable Planning and Community Development
 - b. plan revision to propose an alternative permeable paving surface, to the satisfaction of the Director of Parks, Recreation and Facilities
 - c. plan revision to label accessible parking stall, show dimensions in metric and provide a 1.5m hatched aisle, to the satisfaction of the Director of Engineering and Public Works
 - d. plan revisions to correct the arborist report, tree management plan and landscape plans to the satisfaction of the Director of parks, Recreation and Facilities.
4. That following the third reading of the zoning amendment bylaw, the applicant prepare and execute the following legal agreements, with form satisfactory to the City Solicitor prior to adoption of the bylaw:
 - a. provision of a 1.6m wide statutory right-of-way for highway purposes along the Foul Bay Road, with terms to the satisfaction of the Director of Engineering and Public Works
 - b. provision of a detailed design, supply and installation of a new Rectangular Rapid Flashing Beacon (RRFB) pedestrian crossing of Foul Bay Road at its intersection with Chandler Avenue, including a curb extension at the west side of Foul Bay Road, wheelchair ramps, tactile indicators and all associated infrastructure, to the satisfaction of the Director of Engineering and Public Works

- c. protection, restoration and maintenance of the existing greenspace with a site area of approximately 1,468 m² in accordance with the plans date stamped by Planning on September 14, 2023, which includes provision of a bee colony in the conservation area for a period of at least two years and ensuring that design and construction in the area follows the recommendations in the September 12, 2023 arborist report from Gye & Associates to minimize impacts to trees, to the satisfaction of the Director of Parks, Recreation and Facilities
- d. securing five units in the existing multiple dwelling as rental units for the life of the building, with contents satisfactory to the Director of Sustainable Planning and Community Development
- e. provision of no less than one adaptable unit, in accordance with the standards in the British Columbia Building Code and BC's Building Accessibility Handbook, to the satisfaction of the Director of Sustainable Planning and Community Development;
- f. provision of no less than three four-bedroom and six three-bedroom units, to the satisfaction of the Director of Sustainable Planning and Community Development; and
- g. provision of transportation demand management measures, to the satisfaction of the Director of Engineering and Public Works, including:
 - i. two over-sized long-term bicycle parking spaces;
 - ii. 50% of required long-term bicycle parking with access to an electrical outlet;
 - iii. bicycle wash and maintenance facility.

5. That adoption of the zoning bylaw amendment will not take place until:

third reading of an associated heritage designation bylaw to designate the property known as 515 Foul Bay Road, as described in the Statement of Significance attached as Attachment D, pursuant to Section 611 of the Local Government Act, to the satisfaction of the Director of Sustainable Planning and Community Development,

- a. 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.**

- 6. 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 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 Variances No. 00255 for 515 Foul Bay Road, in accordance with plans submitted to the Planning department and date stamped by Planning on September 14, 2023, in accordance with the following:
 - a. Subject to the proposed development meeting all City zoning bylaw requirements, except for the following variances:
 - i. reduce minimum front yard setback from 6.00m to 0.41m
 - ii. reduce minimum side yard setback (north) from 4.00m to 3.08m
 - iii. increase maximum eave projection from 0.75m to 0.79m
 - iv. permit vehicle parking in the front yard
 - v. reduce short-term bicycle storage from 18 spaces to 10 spaces
 - vi. increase maximum driveway slope from 8.00% to 11.36%
 - vii. reduce minimum two-way driveway width from 6.00m to 4.00m

- viii. increase maximum accessory building height from 3.50m to 4.00m.
 - b. Subject to the property being subdivided into two lots generally in accordance with plans submitted to the Planning department and date stamped by Planning on September 14, 2023.
 - c. That pursuant to section 512(2) of the Local Government Act, Council exempts the existing property at 515 Foul Bay Road 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 September 14, 2023, from the minimum frontage requirements of section 512(1) at the time of subdivision.
2. That the Development Permit with Variances, if issued, lapses two years from the date of this resolution.”

Heritage Designation Application

That Council:

1. Instruct staff to prepare a heritage designation bylaw to designate the property at 515 Foul Bay Road, that first and second reading of the bylaw be considered by Council and that a Public Hearing date be set, and that the heritage designation bylaw provides for the following to the satisfaction of the Director of Sustainable Planning and Community Development:
 - a. no heritage alteration permit is required for interior alterations, repair and maintenance work that would not affect the exterior of the building, or;
 - b. a heritage alteration permit to allow for demolition of the building would be issued for the building if the building is damaged significantly due to fire, flood or similar event outside of the owner’s control.
2. Approve the Statement of Significance for 515 Foul Bay Road attached as Attachment D to this report recognizing the building exterior as the historic features of the property.

BACKGROUND

The purpose of this report is to provide Council with an update on the rezoning application and associated heritage designation for 515 Foul Bay Road. The application was presented at Committee of the Whole on November 16, 2023.

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 came into force on November 30th. Section 5 of Bill 44 amends Section 464 of the *Local Government Act*. It provides that local governments must not hold 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 515 Foul Bay 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.

CONCLUSION

That Council consider the revised recommendation that would advance the rezoning application without a public hearing consistent with current legislation.

Respectfully submitted,

Patrick Carroll
Senior Planner
Sustainable Planning and Community
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Karen Hoese, Director
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Report accepted and recommended by the City Manager.