



Committee of the Whole Report

For the Meeting of February 24, 2022

To: Committee of the Whole **Date:** February 10, 2022

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

Subject: **Rezoning Application No. 00737 for 902 Foul Bay Road and associated Development Permit with Variances Application No. 00192 and Heritage Alteration Permit No. 00250**

RECOMMENDATION

Rezoning Application

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00737 for 902 Foul Bay Road, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Plan revisions to:
 - a. label the visitor parking stall
 - b. correct the tree retention plan, site plan and landscape plans, to the satisfaction of the Director of Parks, Recreation and Facilities
 - c. relocate the bicycle parking structure and make associated landscape changes and parking reductions if required.
2. Further analysis of the proposed tree planting plan and the viability of the proposed on-site and off-site trees, considering site servicing requirements, as well as proximity to proposed buildings on the subject property and existing buildings on the neighbouring properties, to the satisfaction of the Director of Parks, Recreation and Facilities.
3. An executed legal agreement between the owner and Capital Regional Housing Corporation or Capital Regional District to secure four dwelling units (two one-bedroom units and two three-bedroom units) to be sold at a minimum of 20% below market rate (below-market ownership units) in perpetuity, in a form and with terms to the satisfaction of the City Solicitor and the Director of Sustainable Planning and Community Development.
4. Preparation and execution of legal agreements, in a form satisfactory to the City Solicitor, to secure:
 - a. a 2.08m wide statutory right-of-way along the Foul Bay Road frontage, with terms to the satisfaction of the Director of Engineering and Public Works

- b. public realm improvements to include two curb bulbs on Quamichan Street, with terms to the satisfaction of the Director of Engineering and Public Works
- c. car share vehicle memberships and usage credits for each dwelling unit, with terms to the satisfaction of the Director of Sustainable Planning and Community Development
- d. future strata cannot restrict the rental of units to non-owners (with the exception of the four below-market ownership units), with terms to the satisfaction of the Director of Sustainable Planning and Community Development
- e. a minimum of 16 three-bedroom units within the development, with terms to the satisfaction of the Director of Sustainable Planning and Community Development.

Development Permit with Variances 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. 00737, if it is approved, consider the following motion:

“1. That Council authorize the issuance of Development Permit with Variances Application No. 00192 for 902 Foul Bay Road, in accordance with:

- a. Plans date stamped August 6, 2021.
- b. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. increase the building height from 10.5m to 11.54m;
 - ii. reduce the vehicle parking from 27 stalls to 16 stalls and the visitor parking from two stalls to one stall (with potential further reduction to accommodate relocated bicycle parking);
 - iii. reduce the front (Quamichan Street) setback requirement from 6m to 3.10 (to building) and 1.44m (to stairs);
 - iv. reduce the flanking street (Redfern Street) setback from 6m to 3.37m (to building) and 0.37m (to stairs);
 - v. reduce the flanking street (Foul Bay Road) setback from 6m to 3.73m;
 - vi. reduce the rear yard setback from 4m to 3m.

2. That the Development Permit lapses two years from the date of this resolution.”

Heritage Designation Bylaw Amendment and Heritage Alteration Permit Application

That Council,

1. Instruct staff to prepare a bylaw amending Heritage Designation (902 Foul Bay Road) Bylaw No. 495, to protect the historic stone wall that extends the full length of the property’s Quamichan Street frontage and the iron gate located at the corner of Foul Bay Road and Quamichan Street and remove the other features (land, house and trees), that first and second reading of the bylaw be considered by Council and that a Public Hearing date be set.
2. Approve the new Statement of Significance for 902 Foul Bay Road attached as Attachment I to this report recognizing the rock wall as the primary historic feature of the property.
3. After the Public Hearing for Rezoning Application No. 00737, if it is approved, consider the following motion:

- “1. That Council authorize the issuance of Heritage Alteration Permit Application No. 00250 for 902 Foul Bay Road, in accordance with:
 - a. Plans date stamped August 6, 2021.
 - b. The Rock Wall Heritage Conservation Plan by Donald Luxton and Associates Inc. dated March 2020.
 - c. That the Heritage Alteration Permit 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 together with a concurrent Heritage Alteration Permit Application.

Relevant Rezoning considerations relate to:

- proposed density
- change of use to allow ground-oriented multiple dwellings
- new regulations pertaining to height, siting and open site space.

The relevant Development Permit with Variances Permit considerations relate to:

- the application’s consistency with design guidelines
- impact of variances.

The relevant Heritage Designation considerations are whether the historic rock wall has sufficient heritage value and heritage character to justify conservation. The relevant Heritage Alteration Permit considerations are the impact of the new pedestrian gate entrance to the rock wall.

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 483 of the *Local Government Act*, Council may enter into a Housing Agreement which may include terms agreed to by the owner regarding the occupancy of the housing units and provided such agreement does not vary the use of the density of the land from that permitted under the zoning bylaw.

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, 2012 (OCP)*. 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.

In accordance with Section 611 of the *Local Government Act*, Council may designate real property, in whole or in part, as protected property. In accordance with section 611 (2)(c), a heritage designation bylaw may apply to fixtures identified in the bylaw.

In accordance with Sections 617 and 618 of the *Local Government Act*, Council may issue a Heritage Alteration Permit which may be subject to terms consistent with the purpose of the heritage protection of the property, including: (i) conditions respecting the sequencing and timing of construction, (ii) conditions respecting the character of the alteration or action to be authorized, including landscaping and the siting, form, exterior design and finish of buildings and structures and (iii) security. Council may refuse to issue a Heritage Alteration Permit for an action that, in the opinion of Council, would not be consistent with the purpose of the heritage protection of the property.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Rezoning Application, Development Permit with Variances Application and a Heritage Alteration Permit Application for the property located at 902 Foul Bay Road. The proposal is to rezone from the R1-G Zone, Gonzales Single Family Dwelling District to a new site-specific zone in order to increase the density from 0.5:1 floor space ratio (FSR) to 0.72:1 FSR and allow for ground-oriented multiple dwellings at this location.

There is a concurrent Development Permit with Variances Application pertaining to the proposed form, character, exterior design, finishes and landscaping and variances related to height, siting, setbacks and parking for two three-storey buildings containing a total of 18 dwelling units.

A Heritage Designation Bylaw Amendment is also associated with this proposal and would retain protection of the historic stone wall that extends the full length of the property's Quamichan Street frontage and the iron gate located at the corner of Foul Bay Road and Quamichan Street and would remove the other features (land, house and trees). A concurrent Heritage Alteration Permit would allow for a new pedestrian opening and gate in the rock wall.

The following points were considered in assessing the Rezoning Application:

- The proposal is generally consistent with the *Official Community Plan, 2012* (OCP) Traditional Residential Urban Place Designation, which envisions ground-oriented residential uses with density up to 1:1 floor space ratio. The creation of 18 dwelling units, including 16 three-bedroom townhouses and two one-bedroom units, with four of the units secured as below market dwellings, would further the OCP goals of providing housing that is suitable for households with children and providing housing that meets the needs of different people at various income levels.
- The proposal is inconsistent with some of the housing policies in the *Gonzales Neighbourhood Community Plan*, which supports a continuation of existing zoning regulations that ensure the neighbourhood retains its detached dwelling character. However, the proposed mix of market and below market townhouse units is consistent with the Plan's objective to maintain and enhance a diversity of housing to meet different needs and incomes.
- The proposed 2.08m statutory right-of-way (SRW) along Foul Bay Road would provide space for a new sidewalk, boulevard, and street trees, which supports the OCP's transportation and placemaking policies.
- The proposed curb bulbs would introduce traffic calming measures that improve

walkability and enhance pedestrian safety.

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

- The proposed form and character of the development is generally consistent with the design guidelines for Development Permit Area 16: General Form and Character, which envisions buildings and landscaping that complements and enhances the established place character of an area through high quality architecture, landscape and urban design.
- The proposed height and rear yard setback variances are considered supportable because the shadowing and privacy impacts are minimal, and the siting of the buildings and landscaping helps to provide a sensitive transition with the adjacent properties.
- The proposed street setback variances are considered supportable as the proposal provides sufficient setback to accommodate some front landscaping and the setbacks are generally consistent with the existing street context, particularly along Redfern Street.
- The proposed parking variance is considered supportable as the applicant is offering car share memberships and usage credits as well as enhanced bicycle parking to mitigate the impact.
- The proposed siting of the accessory building (bicycle pavilion) is not considered supportable; while the design, materials and green roof help the building to integrate with the overall building and landscape design, there are potentially other less prominent and more suitable locations for the bicycle parking.
- The proposal would result in the loss of 28 trees and replacement with 42 new trees for a net increase of 14 trees.

The following points were considered in assessing the Heritage Designation Bylaw Amendment:

- The heritage designation bylaw for the site (Bylaw No. 03-04) included a 1911 Arts and Crafts style house, select interior features and the land, including the trees, rock wall and iron gate. The house was destroyed by arson in 2016.
- The trees, rock wall and iron gate survived the fire and remain technically protected under the bylaw, however staff and the Heritage Advisory Panel believe the degree of change to the trees and landscape is justified in the absence of the 1911 house, which was the central organizing feature.
- Retention and restoration of the rock wall is consistent with the objectives of the *Official Community Plan, 2012 (OCP)*, which promotes the conservation and enhancement of heritage property throughout the City.
- Retention of the rock wall is supported by the *Gonzales Neighbourhood Community Plan*, which encourages retention and protection of trees, rock walls and other character features.

The following points were considered in assessing the Heritage Alteration Permit:

- The proposed removal of 1.5% of the rock wall to create a new opening is a minor alteration to the wall that facilitates pedestrian access and is consistent with the minimal intervention principle in Standard 3 of the *Standards and Guidelines for the Conservation of Historic Places in Canada*.

BACKGROUND

Description of Proposal

This Rezoning Application is to rezone from the R1-G Zone, Gonzales Single Family Dwelling District to a new site-specific zone in order to increase the density to 0.72:1 floor space ratio and allow for ground-oriented multiple dwellings at this location.

The following differences from the standard RTM Zone, Traditional Residential Multiple Dwelling District, are being proposed and would be accommodated in the new zone:

- limit the maximum density to 0.72:1 FSR
- replace “multiple dwelling” with “ground-oriented multiple dwelling” as a permitted use.

The associated Development Permit with Variances Application is for two three-storey buildings containing a total of 18 dwelling units. One building would front onto Redfern Street and contain ten dwelling units in a stacked configuration. The other building would front onto Foul Bay Road and contain eight dwelling units also in a stacked configuration. Additional accessory structures include two carports located parallel to the north property line and a bicycle parking pavilion located near the corner of Foul Bay Road and Quamichan Street.

Specific details include:

- two buildings containing stacked townhouse units, with entrances oriented towards the street
- modern architectural expression that incorporates traditional building elements and materials that are characteristic of the neighbourhood, such as a gabled roof, inset balconies, shingle siding and raised front entries
- clustered surface parking accessed via Redfern Street and located under one of the townhouse buildings and carport structures
- green roofs above the bicycle pavilion, carport and flat roof portion of the townhouse building fronting Redfern Street.

Exterior materials include:

- painted shingle and panel cladding
- architectural and rendered concrete
- metal roof, awning and picket guard rails.

Landscape elements include:

- common outdoor space with playground
- benches constructed with repurposed heritage stone
- permeable pavers and permeable concrete
- extensive planting with primarily native species
- retention of the heritage rock wall and iron gate with one new pedestrian gate onto Quamichan Street
- 28 trees removed, 14 trees retained, 42 new trees planted.

The proposed variances are related to:

- increasing the building height from 10.5m to 11.54m
- reducing the vehicle parking from 27 stalls to 16 stalls and the visitor parking from two

- stalls to one stall
- reducing the front (Quamichan Street) setback requirement from 6m to 3.10 (to building) and 1.44m (to stairs)
- reducing the flanking street (Redfern Street) setback from 6m to 3.37m (to building) and 0.37m (to stairs)
- reducing the flanking street (Foul Bay Road) setback from 6m to 3.73m
- reducing the rear yard setback from 4m to 3m
- allowing an accessory building to be in the front yard.

Land Use Context

The area is characterized by single-family dwellings – some with secondary suites or garden suites – and duplexes. Properties to the east, on the opposite side of Foul Bay Road, are in the District of Oak Bay.



Existing Site Development and Development Potential

The site has remained vacant since the heritage-designated house was destroyed by fire in

2016. The heritage designation also applies to the land, including the remaining rock wall, iron gate and trees.

Under the current R1-G Zone, the property could be subdivided into four lots. Each of the lots could then be developed with a single-family dwelling, with either a secondary suite or garden suite, for a total of eight dwellings.

Data Table

The following data table compares the proposal with the existing R1-G Zone, Gonzales Single Family District and the standard RTM Zone, Traditional Residential Multiple Dwelling District. An asterisk is used to identify where the proposal is less stringent than the existing or standard Zone. Additionally, the *Official Community Plan, 2012 (OCP)* and *Gonzales Neighbourhood Community Plan* policies that pertain to the area have been included in this table.

Zoning Criteria	Proposal	R1-G (existing zone)	RTM (zone standard)	Plan Policy
Site area (m ²) – minimum	2042	460 (per lot)	920	-
Density (Floor Space Ratio) – maximum	0.72:1*	0.5:1	1:1	1:1 (OCP)
Number of dwelling units	18*	8 (4 lots, 2 dwelling units/lot)	-	-
Height (m) – maximum	11.54*	7.6	10.5	-
Storeys – maximum	3* (plus basement)	2 (1.5 with basement)	3 (plus basement)	2-3 (OCP)
Site coverage (%) – maximum	42.6*	30	50	Limit site coverage (Gonzales Plan)
Open site space (%) – minimum	49*	50	30	Maintain and enhance open space (Gonzales Plan)
Setbacks (m) – minimum				
Front (Quamichan Street)	3.10* (building) 1.44* (stairs)	7.5 (building) 5.0 (stairs)	6.00	Variable setbacks
Rear (N)	3.00*		4.00	-
Flanking Street (Redfern Street)	3.37* (building) 0.37* (stairs)	6.89 (15% of lot width)	6.00	-
Flanking Street	3.73*	6.89 (15% of lot width)	6.00	-

Zoning Criteria	Proposal	R1-G (existing zone)	RTM (zone standard)	Plan Policy
(Foul Bay Road)				
Total vehicle parking – minimum	16*	27	27	-
Visitor vehicle parking (included in total vehicle parking) – minimum	1*	2	2	-
Bicycle parking stalls – minimum				
Long term	24	23	23	-
Short term	12	12	12	-

Description of Historic Place

The house at 902 Foul Bay Road was a large two-storey, Arts and Crafts style house built in 1911 for lawyer David S. Tait. The architect is unknown. The building had historical and aesthetic significance as a good example of the Arts and Crafts style. It was considered a good example of a grand home built for the wealthy business and professional classes in Rockland, Gonzales and Oak Bay during the early 20th century. Character defining elements included the building’s exterior, select interior features, and the surrounding mature landscaping on a generous size lot. After the house was destroyed in 2016, the granite foundation blocks were salvaged and remain on site.

Heritage Designation Bylaw No. 03-04 covers the house, including select interior features as shown on the attached schedule, the land, including the trees, rock wall and iron gate.

Active Transportation

The application proposes a bicycle storage building with 24 long-term parking stalls (including two stalls for longer bikes) and a bike repair station which supports active transportation.

Public Realm

The following public realm improvements are proposed in association with this application:

- a statutory right-of-way (SRW) of 2.08m along the Foul Bay Road frontage to facilitate installation of a new 1.75m wide sidewalk and grassed boulevard with four street trees
- two curb bulbs on Quamichan Street.

These would be secured with a legal agreement, registered on the property’s title, prior to Council giving final consideration of the proposed Zoning Regulation Bylaw Amendment.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant has consulted the Fairfield Gonzales CALUC at a Community Meeting held on November 21, 2019. A summary of the meeting is attached to this report.

Subsequent revisions to the proposal triggered the requirement for a second CALUC consultation period; therefore, consistent with the *CALUC Procedures for Processing Rezoning and Variance Applications*, the application was posted on the Development Tracker on December 7, 2020 along with an invitation to complete a comment form by January 7, 2021. Additionally, the applicant participated in a virtual CALUC meeting on December 17, 2020. A summary of the meeting along with the comment forms are attached to this report.

In response to the consultation the applicant has made minor changes to the proposal; however, the applicant has noted in the letter to Mayor and Council that more significant revisions to reduce density, height or number of units have not been made due to the impact it would have on the affordability aspects of the proposal.

ANALYSIS

Rezoning Application

Official Community Plan

The *Official Community Plan, 2012 (OCP)* Urban Place Designation for the subject property is Traditional Residential, which supports ground-oriented residential uses. The OCP policies for Traditional Residential areas states that new development may have a density of generally up to 1:1 floor space ratio (FSR) and up to two-storeys in height and approximately three-storeys along arterial and secondary arterial roads. The OCP also notes that within each designation there will be a range of built forms and that decisions about the appropriate scale for a particular site will be based on an evaluation of the context in addition to consistency with OCP policies, other relevant City policies and local area plans.

Although the policy would generally discourage a three-storey building at this location given it is not located on an arterial road (Foul Bay is a collector and Redfern and Quamichan are local roads), the proposal is considered supportable because it aligns with many of the other OCP policies and would advance multiple strategic objectives, including:

- providing ground-oriented housing with a density that is less than 1:1 FSR and housing that is suitable for households with children (i.e. three-bedroom units)
- locating new housing along a transit corridor
- securing four below market homeownership units in perpetuity which provides more homeownership options for a range of people
- providing open space and new trees that contribute to the City's urban forest and providing a wide range of ecological and community benefits
- providing new boulevard and sidewalks which advance placemaking objectives by contributing to a more pedestrian friendly environment
- advancing transportation related objectives through the provision of an SRW along Foul Bay Road.

While the buildings are technically three-storeys, they present as 2.5-storey buildings with

partially above grade basements. The design aspects of the proposal including building height, are considered in more detail as part of the development permit review.

Gonzales Neighbourhood Community Plan

The proposal is inconsistent with some of the *Gonzales Neighbourhood Community Plan* housing policies, which encourage the retention of zoning and land use policies that maintain the detached dwelling character of the neighbourhood. However, the proposal would help to advance the Plan’s housing objective of creating a range of housing that meets the needs of people with different needs and incomes, which can include townhouses marketed to first-time homebuyers. The criteria for qualified homebuyers for the four below market units secured with and administered by the Capital Region Housing Corporation include the requirement that purchasers are first-time homebuyers, which is defined as an individual that has not owned property in the past five years.

Inclusionary Housing and Community Amenity Contribution Policy

The *Inclusionary Housing and Community Amenity Policy* does not apply to this rezoning application because the subject site is designated as Traditional Residential.

Housing

The application, if approved, would add approximately 18 new strata 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 proposed dwelling units would provide market housing options for those in the moderate- to above-moderate income brackets.

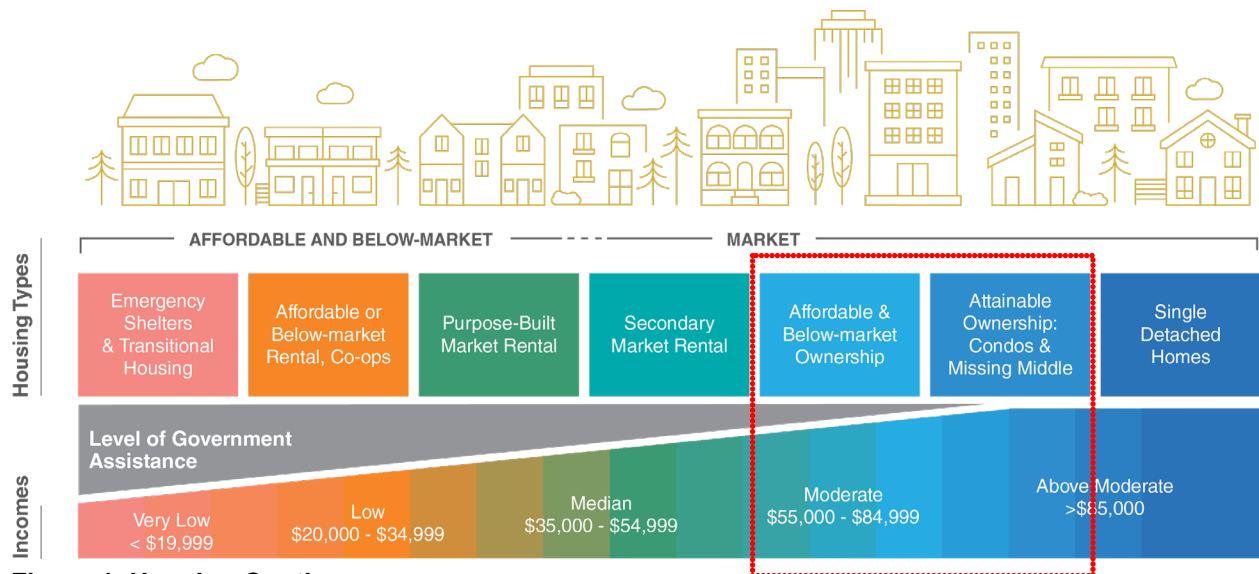


Figure 1. Housing Continuum

Affordability Targets

Attainable Ownership – 14 three-bedroom units

Below Market Ownership – two three-bedroom units and two one-bedroom units

Housing Mix

At present there is no policy that provides targets regarding housing mix and providing minimum unit types is not mandated by the City. However, the OCP identifies a mix of units as an objective and identifies the need for a diverse range of housing units including housing that is suitable for households with children. As submitted, this application proposes two one-bedroom and 16 three-bedroom units. The applicant is offering a legal agreement to secure the provision of at least 16 three-bedroom units.

Security of Tenure

The applicant is offering to secure four of the units (two one-bedroom and two three-bedroom) to be sold at a minimum of 20% below market value for the first and all subsequent sales. The Capital Region Housing Corporation (CRHC) would manage the appraisal and sale of the below-market units in perpetuity (see attached letter from the CRHC). This arrangement would be secured by the CRHC/CRD through legal agreements on title. In addition to income qualification, qualified buyers would have to have lived in the Capital Region for at least a year and have not owned a principal residence within the past five years. Further, a Housing Agreement with the City is also being proposed which would ensure that future strata bylaws could not prohibit the rental of the 14 remaining units.

Statutory Right-of-Way

The applicant is amenable to providing a 2.08m wide statutory right-of-way (SRW) along Foul Bay Road to help achieve a more standard collector roadway width. A retaining wall would be installed on the private property side of the SRW to allow for proper grading and drainage towards the street. A new sidewalk would be constructed within the SRW connecting to a new corner bulb at Foul Bay Road and Quamichan Street. North of the subject site, there is no sidewalk to connect to along Foul Bay Road, so the new sidewalk would stop short of the north property line to allow a cluster of trees to be retained. A new boulevard with three new street trees would be established between the sidewalk and travel lane.

Development Permit with Variance Application

Official Community Plan: Design Guidelines

The OCP identifies the site within Development Permit Area 16: General Form and Character. The objectives of this DPA are to integrate new developments in a manner that complements and enhances the established place character of an area through high-quality architecture, landscape and urban design. Other objectives include providing sensitive transitions to adjacent properties with built form of three-storeys or lower, and to achieve more liveable environments through considerations for human-scaled design, quality of open spaces, privacy impacts and safety and accessibility. Design Guidelines that apply to DPA 16 are the *Multi-Unit Residential, Commercial and Industrial Design Guidelines* (2012), *Advisory Design Guidelines for Buildings, Signs and Awnings* (2006), and *Guidelines for Fences, Gates and Shutters* (2010).

The proposal complies with the guidelines as follows:

- the building design, materials and landscaping respects the character of the established area and incorporates exterior materials that are high-quality, durable and will weather gracefully
- street-oriented entrances along Redfern Street and Quamichan Street are prominent and include entry canopies and porches that provide a transition from the public realm of

the street and sidewalk to the private realm of the proposed residences

- landscaped planting areas and communal outdoor spaces that foster community and contribute to the green character of the area
- pedestrian oriented site planning with clustered parking located to the side and rear of the buildings and accessed via a shared driveway, which limits the visual impact of vehicle parking on the existing street character and reduces the amount of site area taken up by vehicle access and parking.

The *Gonzales Neighbourhood Community Plan* encourages property owners to retain and protect trees, rock walls, and other unique features that contribute to the green character of the area. The Plan also supports new development that takes into consideration the character of the site, as well as the design of neighbouring buildings. The proposal would result in the loss of many of the mature trees on the site; however, the heritage rock wall would be retained and stone from the heritage house would be used to construct stone benches and featured in a retaining wall on the east side of the property.

The proposed stacked townhouses are considered consistent with the place character envisioned in the OCP for Development Permit Area 16 and generally compatible with the existing context. However, staff have encouraged the applicant to consider stepping down the building height or increasing the building setback at the northeast end of the site to provide a more sensitive transition in scale with the neighbouring property, limit shadowing impacts and potentially retain additional trees. The applicant has not made these changes due to concerns that it could have on the financial viability of the project and the ability to provide the below market housing units.

Variances

Although a site-specific zone is sought, variances are recommended (instead of inclusion in the new zone) for areas where the proposal is not consistent with the standard RTM Zone, Traditional Residential Multiple Dwelling District, and the Off-Street Parking Regulations (Schedule C) of the *Zoning Regulation Bylaw*. This ensures that if this proposal is not built, any potential future redevelopment would require Council's consideration and approval for these specific aspects.

Building Height

A variance is requested to increase the building height from 10.5m to 11.54m. To ameliorate the impact of the height variance, the building to the west is sited closer to the corner of Redfern Street and Quamichan Street. In addition, the portion of the building closest to the north property line would be stepped down in height by approximately 4m. The building to the east is set closer to the north property line (3.0m) so a row of trees is proposed along the property line to mitigate the impact of height. Furthermore, there are no windows on the upper storey and minimal windows on the lower storeys facing the north neighbours to mitigate any privacy concerns associated with overlook.

The applicant has provided a shadow analysis that demonstrates there would be minimal shadowing impacts on the properties to the north by the building to the west and some shadowing of the rear yard by the east building. The amount of shadow is likely less than would be created by subdivision and development of single-family dwellings under the existing zoning.

Parking

A variance is requested to reduce the required number of parking spaces from 27 stalls to 16

stalls and the visitor parking from two stalls to one stall. Although the proposed dwellings are ground-oriented, due to the stacked configuration of the units they are considered “multiple dwellings” under the Zoning Regulation Bylaw rather than “attached dwellings” (i.e. townhouses). The magnitude of the variance results from the proposal being assessed against the parking requirements for larger multiple dwellings (1.45 stalls per unit) rather than the requirements for attached dwellings (1 stall per unit). To mitigate the potential impacts from this variance the applicant is proposing car-share memberships and credits for each of the dwelling units, as well as enhanced bicycle parking facilities. It is also worth noting that for the four below market units the CRHC gives preference to qualified buyers that do not own vehicles.

Should Council choose to advance the application, plan revisions are recommended to explore an alternate location for the proposed bicycle parking. For example, the parking stalls located under the west building could potentially be converted to a secure bicycle parking area. This would result in a larger parking variance; however, it would also provide additional open site space at the most prominent corner of the site (Foul Bay Road and Quamichan Street) which could be used as planting space for additional bylaw replacement trees. The applicant has been encouraged to explore this option during the application review process, but there has been a reluctance to provide less than a 1:1 parking ratio for the larger three-bedroom units. However, now that two of the larger units secured with the CRHC are intended to be occupied by residents without cars, there may be less demand for on-site parking. The staff recommendation includes language to allow for some flexibility to allow the bike parking to be located where vehicle parking is currently indicated. A follow-up staff report would advise Council of the updated parking variance should this change be pursued.

Setbacks

Variances are requested to reduce the front yard, flanking street and rear yard setbacks (see table below).

	Proposal	RTM Zone
Front Yard Setback (Quamichan Street)	3.10* (building) 1.44* (stairs)	6.00
Flanking Street Setback (Redfern Street)	3.37* (building) 0.37* (stairs)	6.00
Flanking Street Setback (Foul Bay Road)	3.73*	6.00
Rear Yard Setback (North)	3.00*	4.00

The setback variances are considered supportable as the proposed siting would have minimal shadowing impacts on the adjacent properties and the units are staggered along the street frontages so that the setbacks are variable and provide space for front yard landscaping and tree retention. Furthermore, the proposed setback along Redfern Street is generally consistent with the setbacks for properties to the north of the subject site. The rear yard setback is considered supportable because only the north wall of the east building is set 3.0m from the property line, while the majority of the development is setback much further from the property line.

Accessibility

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

Sustainability

As stated in the applicant's letter to Mayor and Council, the architectural design and site planning is based on passive design principles to increase solar gain in winter and minimize solar heating in summer. The proposed green roofs, permeable pavers and open space areas would also aid in on-site stormwater management.

Advisory Design Panel Review

The application was reviewed by the Advisory Design Panel on October 28, 2020 (minutes attached). Staff requested input from the Panel regarding the proposed interface with Foul Bay Road, transition in scale with surrounding properties and any other aspects of the proposal on which ADP chose to comment on. The Panel supported moving the application forward as presented with consideration of the Foul Bay frontage improvements and building interface with Foul Bay Road.

In response, the applicant has reconfigured the landscaping, patio entrances and pathways connecting to a new sidewalk along Foul Bay Road, creating more prominent connections and better delineation between private and public space.

Heritage Designation Bylaw Amendment and Heritage Alteration Permit Application

Standards and Guidelines for the Conservation of Historic Places in Canada (2010)

The Standards and Guidelines is a national framework for assessing alterations to historic places. It defines three main conservation treatments, a set of standards or conservation principles for all projects to follow and a set of specific guidelines for conserving different types of historic features. According to the *Official Community Plan, 2012 (OCP)* and the *Heritage Property Protection Bylaw No. 95-62*, alterations to protected heritage property are required to adhere to the Standards and Guidelines.

Heritage Designation Bylaw Amendment

The Heritage Designation Bylaw for this property currently designates the house, including select interior features, the land, including the trees, stone wall and iron gate as protected heritage property. As noted, the 1911 house was destroyed in a fire and no longer exists. The proposal is to amend the Heritage Designation Bylaw to retain the designation of the remaining stone wall and iron gate.

The conservation treatment proposed for the remaining heritage features at 902 Foul Bay Road is *rehabilitation*, defined as the sensitive adaptation of an historic place for a continuing or compatible contemporary use, while protecting heritage value. The changes proposed to the land and trees on the site are significant, however the degree of change is justified in the absence of the 1911 house. The statement of significance describes the heritage features as a collection whose heritage value was interdependent. It focuses on the house as the central organizing feature that imparted meaning to the trees, wall and the lot. The statement of significance refers to the mature landscaping only as a setting for the house and does not

identify particular trees as individually significant features:

"The house is surrounded by mature landscaping on a generous size lot and retains its original relationship to the site, and these elements also define its character."

Although the trees are protected under the heritage designation bylaw, they derived their heritage significance from the house. In staff's opinion, removal of references to trees and land from the designation bylaw is appropriate.

Heritage Alteration Permit

The rock wall extends the full length of the property's Quamichan Street frontage, with a small portion extending up Foul Bay Road. It has a total length of approximately 40 metres. The applicant proposes one new pedestrian opening in the rock wall, which would measure under 1.5 metres in width. Staff consider the removal of less than 4% of the wall to be a minor alteration that facilitates pedestrian access and would provide increased opportunities for residents to view the wall up close.

Heritage Advisory Panel Review

The application was reviewed by the Heritage Advisory Panel on November 10, 2020 and recommended that Council approve the application and limit the scope of the heritage designation to the wall alone:

That the Heritage Advisory Panel recommend to Council that Heritage Alteration Permit with Variances Application No. 00022 for 902 Foul Bay Road be approved with the following changes:

The heritage designation bylaw be revised with the exception of the stone wall.

Carried (5 in favour, 1 opposed)

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 between October 24, 2019, and July 1, 2021, so *Tree Preservation Bylaw* No. 05-106 (consolidated November 22, 2019) applies.

Forty-two trees have been inventoried. There are 33 trees located on the subject lot, seven trees on municipal property and two neighbouring trees impacted by the proposal. Of the trees inventoried, there are a total of 26 protected by the *Tree Preservation Bylaw*: 25 on the subject lot and one neighbouring tree.

Proposed Tree Removals

Twenty-eight trees are proposed for removal, including 17 trees on the subject lot that are protected under the *Tree Preservation Bylaw* and five municipal trees. Removal of trees #268, #323 and NT4 would be required for construction of the parking lot and covered car parking areas. Trees #330, #334, #335, #336, #338, #339, #340, #341, #345, #348, #372, and #446 are in the building area or immediately adjacent and their removal would be required for excavation and building construction. Tree #420 is dead, tree #422 is nearly dead and Parks is

recommending it's removal. Municipal poplar trees #266 and #267 will require removal for construction of the parking area and English hawthorn #NT3 will require removal for construction of off-site works. Municipal holly #NT8 and Laburnum #NT7 are proposed for removal at the request of City staff as these trees are not suitable candidates for retention.

The table below outlines details on *Tree Preservation Bylaw* protected and municipal trees proposed for removal:

Tree #	Species	Diameter (DBH)	Health Condition	Structural Condition	Ownership	Reason for Removal
268	Trembling aspen	46	Fair	Fair	Subject site	Construction of parking lot and covered parking
323	Horse chestnut	51	Fair	Fair	Subject site	Construction of parking lot and covered parking
330	Garry oak	106	Poor	Poor	Subject site	Within building outline
334	Garry oak	26	Good	Fair	Subject site	Within building outline
335	Garry oak	36	Good	Fair	Subject site	Within building outline
336	Garry oak	26, 67	Fair	Fair	Subject site	Excavation for building
338	Arbutus	18	Good	Good	Subject site	Excavation for building
339	Garry oak	52, 62	Fair	Fair	Subject site	Excavation for building
340	Garry oak	62	Fair	Fair	Subject site	Excavation for building
341	European beech	85	Fair	Fair	Subject site	Within building outline
343	European beech	89	Fair	Fair	Subject site	Excavation for building
345	Horse chestnut	64	Fair	Fair	Subject site	Excavation for building
348	European birch	65	Fair	Fair	Subject site	Excavation for building
372	European birch	59	Fair	Fair/Poor	Subject site	Excavation for

						building
420	Garry oak				Subject site	Tree is dead
446	Douglas fir	30	Fair	Good	Subject site	Excavation for building
NT4	Holly	15, 30	Good	Good	Subject site	Within parking lot outline
266	Trembling aspen	26, 37	Fair	Fair	Municipal	Construction of parking lot and covered parking
267	Trembling aspen	41	Fair	Fair	Municipal	Construction of parking lot and covered parking
NT7	Laburnum	11,15,17	Poor	Poor	Municipal	Unsuitable for retention
NT3	English Hawthorn	28	Good	Fair	Municipal	Construction of off-site works
NT8	Holly	14	Fair	Good	Municipal	Unsuitable for retention

Trees Proposed for Retention

A total of 14 trees would be retained with this development project including nine trees on the subject lot that are protected by the *Tree Preservation Bylaw*. Most of these trees are in the northeast and the southwest corners of the lot. The project arborist has recommended several mitigation measures at various stages of the project to ensure these trees shall be retained. The table below outlines details on all trees proposed for retention:

Tree #	Species	Diameter (DBH)	Health Condition	Structural Condition	Tree Preservation Bylaw Protected	Ownership
269	Horse chestnut	33,34,35,45	Fair	Fair/Poor	No	Municipal
270	Horse chestnut	84	Fair	Fair/Poor	No	Municipal
313	Garry oak	88	Fair	Fair	Yes	Subject site
337	Arbutus	12	Fair	Fair	Yes	Subject site
361	Horse chestnut	62	Fair	Fair	Yes	Subject site
362	Holly	52	Good	Fair/Poor	Yes	Subject site
384	Horse chestnut	54	Fair	Fair/Poor	Yes	Subject site

385	Horse chestnut	80	Fair	Fair	Yes	Subject site
387	Horse chestnut	66	Fair	Fair/Poor	Yes	Subject site
421	Garry oak	91	Fair/Poor	Fair	Yes	Subject site
422	Garry oak	34	Poor	Poor	Yes	Subject site
NT1	False cypress	22	Fair/Poor	Fair	No	Neighbour
NT2	Laburnum	10, 10, 20	Fair	Fair	Yes	Neighbour
NT6	Holly	8, 12	Good	Good	No	Subject Site

Proposed Planting and Replacement Tree Compensation

At the 2:1 replacement ratio outlined in the *Tree Preservation Bylaw*; 34 replacement trees are required. The proposed Tree Planting Plan shows 33 new trees for this development, with 21 identified as bylaw replacement trees. The other 12 new trees are proposed in areas with very limited growing space and therefore, based on the current proposal, cannot be considered replacement trees. Under the current proposal, the applicant would be required to pay \$24,000 cash-in-lieu towards the City's Tree Reserve Fund (\$2,000 X 12 replacement trees not planted). The recommendation for Council's consideration includes a requirement for the applicant to undertake further analysis of the viability of the additional 12 proposed trees prior to scheduling a public hearing.

Nine new boulevard trees are proposed. Approval of a statutory right-of-way along Foul Bay Road would allow for four municipal trees to be planted in a separated boulevard. Three boulevard trees are also proposed along Quamichan Street and two along Redfern Street.

Tree Impact Summary Table

Tree Status	Total # of Trees	To be REMOVED	To be PLANTED	NET CHANGE
On-site trees, protected by the <i>Tree Preservation Bylaw</i>	26	17	21	+4
On-site trees, not protected by the <i>Tree Preservation Bylaw</i>	7	6	12	+6
Municipal trees	7	5	9	+4
Neighbouring trees, protected by the <i>Tree Preservation Bylaw</i>	1	0	0	0
Neighbouring trees, not protected by the <i>Tree Preservation Bylaw</i>	1	0	0	0
Total	42	28	42	+14

Resource Impacts

The proposal would increase the number of street trees by four, which have an annual maintenance cost of \$60 per tree or \$240 in total.

CONCLUSION

The proposed rezoning is generally consistent with the OCP as it relates to ground-oriented residential development within Traditional Residential areas and furthers the goals in the OCP with regards to encouraging development along transit corridors and providing a diversity of housing types to create more home ownership options. The proposed development is generally consistent with the applicable Design Guidelines and includes high-quality building materials and landscape finishes. The contemporary design is supportable and complementary to the existing character of the area. The variances have been mitigated through design and the provision of TDM measures. Therefore, it is recommended for Council's consideration that the applications advance to a Public Hearing and Opportunity for Public Comment, subject to minor plan revisions and the preparation of legal agreements.

ALTERNATE MOTION

That Council decline Rezoning Application No. 00737, Development Permit with Variances Application No. 00192 and Heritage Alteration Permit No. 00250 for 902 Foul Bay Road.

Respectfully submitted,

Alec Johnston
Senior Planner
Development Services Division

John O'Reilly
Senior Heritage 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 August 6, 2021
- Attachment C: Letter from applicant to Mayor and Council received August 31, 2021
- Attachment D: Letter from Capital Region Housing Corporation dated November 16, 2021
- Attachment E: Pre-Application Consultation Comments from Online Feedback Form
- Attachment F: Fairfield Gonzales CALUC meeting summaries dated November 21, 2019 and December 17, 2020
- Attachment G: Advisory Design Panel minutes dated October 28, 2020
- Attachment H: Heritage Advisory Panel minutes dated November 10, 2020
- Attachment I: Rock wall heritage conservation plan including revised statement of significance, dated March 2020

- Attachment J: Arborist Report dated April 20, 2020 and amended August 4, 2021
- Attachment K: Correspondence (Letters received from residents).