



## **Committee of the Whole Report**

### **For the Meeting of July 25, 2024**

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**To:** Committee of the Whole

**Date:** July 11, 2024

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

**Subject:** **Rezoning Application No.00868 for 515 and 519 Rithet Street and Development Permit with Variances Application No. 00267**

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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 11, 2024 for 515 and 519 Rithet Street.
2. 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.
3. That following the third reading of the Zoning Regulation Bylaw amendment, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Sustainable Planning and Community Development and form satisfactory to the City Solicitor prior to adoption of the bylaw:
  - a. Provision of a cash contribution of \$31,100.00 towards the City's Housing Reserve Fund, to be provided at the time of building permit issuance.
  - b. Provision of transportation demand management measures including:
    - i. two secure cargo bicycle parking spaces
    - ii. ten percent of bicycle parking dedicated to cargo bikes and fifty percent of all bicycle parking with access to an electric outlet
    - iii. a car share membership for all residential units
    - iv. one electric cargo bicycle purchased by the developer for residents' use.
4. That adoption of the Zoning Regulation Bylaw amendment will not take place until 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.
5. 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, 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. 00267 for 515 and 519 Rithet Street, in accordance with plans submitted to the Planning department and date stamped by Planning on May 31, 2024, subject to:
  - a. Proposed development meeting all City zoning bylaw requirements, except for the following variances:
    - i. reduce the required rear-yard setback from 8.0m to 3.73m
    - ii. reduce the east side yard setback from 3.0m to 2.21m
    - iii. reduce the required number of vehicle parking stalls from twenty-four to ten.
  - b. Plan changes to identify the on-site visitor vehicle parking stall.
  - c. Plan changes to the bicycle parking area to include a bicycle and mobility scooter maintenance and wash area, space for the shared bicycle, and
  - d. Plan changes to provide for a greater proportion of horizontal bicycle parking stalls.
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 (DPV) application. Relevant rezoning considerations include:

- an increase to density from 1.6:1 Floor Space Ratio (FSR) to 1.75:1 FSR

Relevant DPV considerations include:

- form and character attributes of the proposed building and landscaping relative to the application's consistency with design guidelines
- 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 489 of the *Local Government Act*, Council may issue a Development Permit in accordance with the applicable guidelines specified in the *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 and Development Permit with Variances application for the property located at 515 and 519 Rithet Street. The proposal is to rezone from the R3-2 Zone, Multiple Dwelling District, to a new zone with higher density to construct a five-storey multi-unit strata residential building. Form and character considerations and variances related to setbacks and parking are contemplated in the concurrent Development Permit with Variances application.

The following points were considered in assessing the Rezoning application:

- The rezoning contemplates increasing the density from 1.6:1 Floor Space Ratio (FSR) to 1.75:1 FSR. This is below the maximum density of 2:1 FSR contemplated in the *Official Community Plan* (OCP) in locations that support the growth management concept, such as in proximity to Urban Villages, Town Centres and Transit Priority Corridors.
- At five storeys, the proposal is also within the maximum building height of six storeys envisioned in the OCP.
- The proposal is generally consistent with the *James Bay Neighbourhood Plan* which encourages new development to be context appropriate in terms of height and massing.

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

- The application is consistent with the design guideline objectives for Development Permit Area 16 (General Form and Character) to transition to smaller scale adjacent properties by providing the largest setbacks where the transition occurs, stepping the upper storeys of the building back and by proposing a shorter building than what the zoning would permit.
- Additional consistencies with the design guidelines are achieved through design strategies to reduce overlook and to provide a context-sensitive design that emulates traditional architectural proportions, symmetry and articulation.
- The variances relate to reduced side and rear-yard setbacks and parking. The setback variances are outcomes of responding to neighbour concerns and the site geometry and are supportable because they match the established building footprint context. Additionally, they result in minor impacts compared to accommodating a taller building which the zone would permit without variances. To make up for the parking shortfall, a number of Travel Demand Management (TDM) strategies are offered and secured.

## BACKGROUND

### Description of Proposal

This proposal is to rezone from the R3-2 Zone, Multiple Dwelling District, to a new zone to increase the density at this location. There is a concurrent Development Permit with Variances application pertaining to the proposed form and character of a proposed five-storey multi-unit residential building with variances related to side and rear-yard setbacks and parking.

The proposed new zone is intended to replicate the emerging policy for a consistent Urban Residential Zone. The new zone only differs from the future Urban Residential Zone by permitting five-storey buildings instead of six and by allowing for a maximum density of 1.75:1 FSR and not up to 2:1 FSR. The variances are discussed in relation to the concurrent Development Permit with Variances application, leaving the proposed increase in density being the only difference from the existing zone. As previously noted, the proposal is to increase the density from 1.6:1 FSR to 1.75:1 FSR.

The associated Development Permit with Variances is for the construction of a five-storey multi-unit, strata residential building. Specific details include:

- a sixteen unit, five-storey strata-residential building with a setback fifth storey
- east facing, shared building rooftop deck amenity
- raised front yard patios with direct unit entry from the street
- white, cementitious panel cladding
- vegetated screening to neighbouring properties including privacy hedges and trees up to 2.5m in height in planters above a parking structure
- perforated, metal balcony screens
- one level of underground parking.

The proposed variances are related to reduced site and rear-yard setbacks and parking.

### Land Use Context

The area is characterized by a mix of multi-unit apartment buildings, multi-unit house conversions, townhouses and single-family dwellings within a predominantly residential area, close to a waterfront and park amenity (figure 1).



**Figure 1: Subject Site and Context**

### Existing Site Development and Development Potential

The site is presently occupied with two single family dwellings and under the R3-2 Zone, the property could be developed into a six storey multi-unit, residential building.

### Data Table

The following data table compares the proposal with the existing R3-2 Zone, Multiple Dwelling District, a proposed five-storey low rise zone that is similar to the emerging Urban Residential Zone and the Official Community Plan. An asterisk is used to identify where the proposal does not meet the requirements of the proposed new zone and where the proposal does not meet the parking requirements of the existing Zone.

Zoning Criteria	Proposal	Existing R3-2 Zone	Zone Standard R-Five-Storey Zone	OCP Policy
Density (Floor Space Ratio) – maximum	<b>1.75:1*</b>	1.2:1	1.75:1	1.2:1 and up to 2:1:1
Height (m) – maximum	16.4	18.0	16.5	N/A
Storeys – maximum	5	6	5	6
Site coverage (%) – maximum	45.7	32	55	N/A
Open site space (%) – minimum	28.7	60	25	N/A
<b>Setbacks</b> (m) – minimum				
Front	5.97	12	4	N/A
Rear	<b>3.73*</b>	8.3	8	N/A
Side (west)	6.58	8.3	3	N/A
Side (east)	<b>2.21*</b>	8.3	3	N/A
Parking – minimum	<b>10*</b>	24	8	N/A
Accessible Parking stall-minimum	1	1	1	N/A
Bicycle parking stalls – minimum				
Long Term	20	20	20	N/A
Short Term	6	6	6	

## Sustainable Mobility

The application proposes the following features which support multi-modal transportation:

- two secure cargo bicycle parking spaces
- ten percent of bicycle parking dedicated to cargo bikes and fifty percent of all bicycle parking with access to an electric outlet
- a car share membership for all residential units provided by the developer
- one electric cargo bicycle will be purchased by the developer for resident's use.

## Public Realm

No additional public realm benefits have been identified.

## Relevant History

A Development Permit with Variances (application No. 00187) was previously approved by Council on September 8th, 2022. The previous application was for a development permit only (not a rezoning) and was a four-storey strata residential building with a density of 1.6:1 FSR. However, the applicant has indicated that this revised design is proposed to satisfy structural and seismic requirements of the forthcoming building code, and to improve the financial viability of the project. The revised design includes additional density and height, as well as minor changes to the unit layouts and improved transportation demand management (TDM) measures.

## Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, prior to submission of the application, it was posted on the Development Tracker along with an invitation to complete a comment form on October 24, 2023. Mailed notification was sent to owners and occupiers of properties 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. Additionally, the applicant participated in a meeting with the James Bay CALUC on November 8, 2023. A letter dated November 12th, 2023, along with the comment forms are attached to this report.

In response to the consultation the applicant has made plan changes to address the privacy concerns for the neighbouring properties, including focusing on a north and south outlook and by adding privacy screening, and obscure glass on balconies.

Section 464(3) of the *Local Government Act* prohibits a local government from holding a public hearing for a rezoning application that is consistent with the OCP and is intended to permit residential development. However, notice must still be sent to all owners and occupiers of adjacent properties prior to introductory readings of the zoning regulation bylaws.

## ANALYSIS

### Rezoning Application

#### Official Community Plan

This property is designated as Urban Residential in the *Official Community Plan* (OCP, 2012), which envisions multi-unit residential buildings, including mid-rise apartments, with heights ranging from three to six storeys. Total floor space ratios range from 1.2:1 to 2.1:1 FSR with the higher range of densities envisioned in locations that support the growth management concept in the OCP. Sites that are in proximity to Urban Villages, and along Transit Priority Corridors or where public benefit is provided in line with the objectives of the OCP may all be considered for the higher density outlined above.

The proposal is located in close proximity to a frequent transit priority corridor and is less than 300m from the James Bay Large Urban Village. These attributes make it generally consistent with the vision and density ranges outlined in the OCP urban place designation with a proposed density of 1.75:1 FSR and a height of five storeys.

## James Bay Neighbourhood Plan

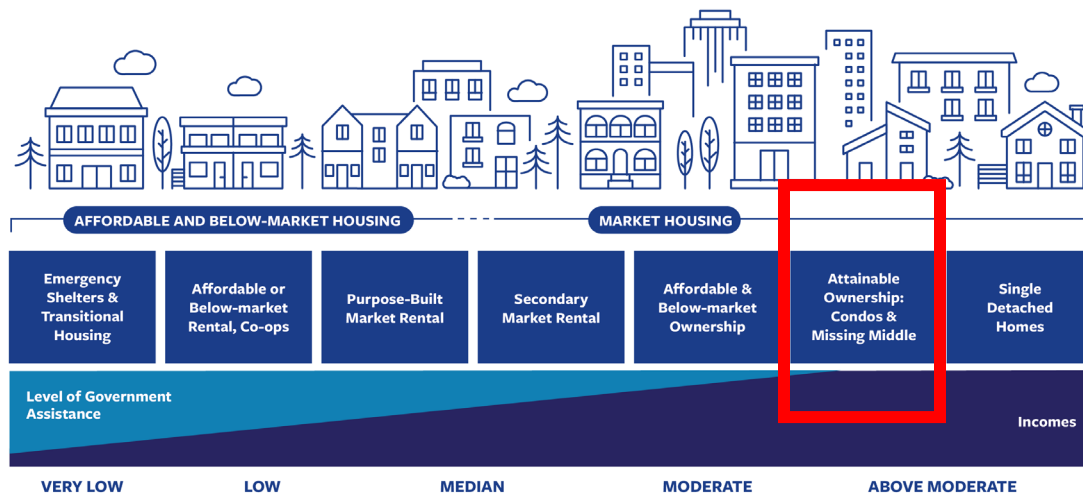
The OCP provides more up to date guidance for the neighbourhood, however, the *James Bay Neighbourhood Plan* includes direction to limit development in this area to three to four storeys. At five storeys, the proposal is generally consistent with this objective. Additionally, the street context includes multi-unit buildings that range from four to seven storeys, making its addition to the street context appropriate.

## Inclusionary Housing and Community Amenity Contribution Policy

As per the Inclusionary Housing and Community Amenity Contribution (IHCAC) policy, the application proposes a cash contribution of \$31,000 toward the City's Housing Reserve Fund to help offset the impacts of development.

## Housing

The application, if approved, would add approximately 16 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 1. Housing Continuum**

## *Affordability Targets*

The proposal is for market, strata residential units.

## *Housing Mix*

Council recently ratified the city's new Family Housing Policy (June 27<sup>th</sup>) which provides targets for housing mix and unit type. However, this policy does not come into effect until September 1, 2024, and this proposal's unit mix was established prior to the development of this policy. That said, the OCP identifies family housing as an objective and in response to this the development will provide:

- three (3) one-bedroom units,
- eight (8) two-bedroom units, and
- five (5) three-bedroom units.

Compared to the forthcoming Family Housing Policy, this proposal provides three more three-bedroom units and three more two-bedroom units than the policy would require.

### *Existing Tenants*

The Tenant Assistance Policy is applicable to rezoning applications to redevelop or demolish any building that will result in loss of existing residential rental units. While the proposal includes the demolition of two existing houses, which would result in a loss of two existing residential rental units, a Tenant Assistance Plan (TAP) is not required because both units are unoccupied.

### **Development Permit with Variances Application**

#### Official Community Plan: Design Guidelines

The Official Community Plan, 2012 (OCP) identifies this property within DPA 16, General Form and Character. The objectives of this designation include:

- supporting multi-unit residential development
- encouraging complementary and contextual proposals that are sensitive to the established character of a neighbourhood
- enhancing the place character with high quality architecture and urban design.

Design Guidelines that apply to this DPA are the *Design Guidelines for Multi-Unit Residential, Commercial and Industrial Development (2012)*, *Advisory Design Guidelines for Buildings, Signs and Awnings (1981)*, and *Guidelines for Fences, Gates and Shutters (2010)*.

Overall the proposal is considered consistent with the intents and objectives outlined in the above guidelines.

Looking at the immediate neighbourhood context, Rithet Street is predominantly characterized by apartment buildings ranging in size from four to seven storeys. Single family homes and two heritage houses are located nearby and fronting onto Menzies Street. To achieve a contextually sensitive design that is consistent with the guidelines, the proposal provides a subdued architectural approach that follows traditional architectural proportions and symmetry, without introducing novel design elements foreign to the neighbourhood. Furthermore, the building footprint is small, given the site constraints, and materials and articulation have been employed consistent with the form and character of the area.

Other aspects of the proposal that align with the design guideline goals include:

- proposing ground-oriented units that have direct access and front patios facing the street, elevated from the sidewalk to provide privacy
- building setbacks and massing that transitions the building height to the lower scaled traditional residential area to the west
- unified landscaping that formalizes the frontage and provides privacy to adjacent properties
- finer scaled and articulated built form that is human-scaled, diverse and coherent with the street as a whole.

Design approaches have also been taken to reduce the impact of overlook, by lowering the side yard balconies and by reducing the amount of glazing. Side yard windows are also strategically located to ensure liveability for the proposed units and the neighbouring properties. A landscape buffer is provided along both the east and west property lines and, where overlook is of greatest concern, along the west property line, the largest setback is proposed at over six meters.



## Variances

A comparison of the proposal to the existing zone is provided in the data table; however, the variances associated with this application relate to the proposed new zone that would be generated as part of the current rezoning application and not the existing zone. This new zone typifies a standard urban residential zone except for the allowable building height and density. The only place where the proposal is compared to the existing zone is in relation to the proposed parking.

The two variances from the proposed new zone relate to the rear and side yard setbacks. For the east side yard setback, typically, a three-meter setback would be sought. However, to provide a greater setback to the west, where the adjacent properties rear yards face, the building footprint has been shifted east, approximately 0.8m closer to the property line. This is immaterial given that the adjacent property is unlikely to be redeveloped, its units generally face north and south and away from the interior property line and it has a similar setback.

The rear yard setback is proposed at just over three and a half meters, where current guidelines would seek a minimum rear yard of eight meters. This reduced setback is the result of both the site geometry and an attempt at addressing neighbour concerns. A large proportion of community feedback focused on building height. To address these concerns the proponent opted for a lower height building, noting that the existing zone permits up to six storeys. The result of this is a larger building footprint that extends into the area normally reserved for the rear yard setback. There would be an opportunity to shift the building closer to the street, however, to achieve an appropriate driveway slope to the underground parking, the building footprint is forced to be further from the street. Given these constraints and considerations, this variance meets the criteria to be supportable.

To make up for the parking variance from the existing zone, the applicant has offered a number of TDM measures which would be secured within a legal agreement. These include:

- two secure cargo bicycle parking spaces
- ten percent of bicycle parking dedicated to cargo bikes and fifty percent of all bicycle parking with access to an electric outlet
- a car share membership for all residential units provided by the developer
- one electric cargo bicycle provided by the developer.

## Accessibility

The proposed landscape and pathways, including the front entry, are designed to be accessible while still providing elevated street facing units which help to ensure the liveability of these units. Other accessibility improvements proposed are in line with what is required through the British Columbia Building Code.

## Sustainability

The applicant has not identified any sustainability features associated with this proposal above and beyond the requirements for Step Code three. However, the applicant has indicated that additional features, such as additional EV chargers, led lighting, ERVs (energy recovery ventilation units), highly insulated building and rooftop gardening are contemplated to be included during the next phases of project development. Additionally, all building systems and appliances will be electric, no natural gas appliances or equipment are incorporated into the design and therefore no natural gas infrastructure will be brought to the property.

## 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. The Urban Forest Master Plan recommends a city-wide canopy cover of 40%. Based on 2019 LiDAR analysis, James Bay canopy cover is 27%.

A total of 19 trees have been inventoried. Of these, there are 11 bylaw protected trees: three on the subject lot and eight on neighbouring properties. There are currently no existing municipal trees.

Ten trees are proposed to be removed from the subject site, including three bylaw-protected trees as they are in the building area or immediately adjacent to an area where excavation will occur. All off-site trees can be retained following the mitigation measures outlined in the attached Arborist Report.

The landscape plan shows ten new trees including six replacement trees, as required under the *Tree Protection Bylaw*.

### **Resource Impacts**

One new irrigated boulevard tree is proposed along the Rithet Street frontage in a new grass boulevard.

Increased Inventory	Annual Maintenance Cost
Street Tree – One net new (\$60 per tree)	\$60
Irrigation	\$400
30 m <sup>2</sup> new grass boulevard (bump out) on Rithet St.	\$150

### **CONCLUSIONS**

The proposal adds sixteen market strata-residential units to the neighbourhood housing stock, with thirty percent of those units (five units) being three-bedroom homes. The proposed form and character are consistent with the relevant design guidelines and the density and building height are in line with the scale of development envisioned in the OCP. Where variances are proposed, a suitable rationale has been provided to support them. Transit demand management strategies are committed to and a contribution of \$31,000 is proposed for the City's Housing Reserve Fund to help offset the impacts of development. Overall, the application's wide-ranging consistency with the variety of applicable city policies supports the recommendation to approve this proposal.

### **ALTERNATE MOTION**

That Council decline Rezoning application No.00868 and Development Permit with Variances application No. 00267 for the property located at 515 and 519 Rithet Street.

Respectfully submitted,

Miko Betanzo  
Senior Planner, Urban Design  
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: Architectural Plans date stamped May 31, 2024
- Attachment C: Landscape Plans date stamped June 25, 2024
- Attachment D: Letter from applicant to Mayor and Council dated May 30, 2024
- Attachment E: Community Association Land Use Committee Comments dated November 12, 2023
- Attachment F: Arborist Report dated May 17, 2024
- Attachment G: Pre-Application Consultation Comments from Online Feedback Form
- Attachment H: Correspondence (Letters received from residents).