



Council Report

For the Meeting of August 1, 2024

To: Council **Date:** July 18, 2024

From: Karen Hoese, Director, Planning and Development

Subject: **Rezoning Application No. 00821, associated Official Community Plan Amendment, and Development Permit with Variances Application No. 00204 for 1733, 1735 and 1737 Fairfield Road**

Rezoning Application No. 00845 and associated Official Community Plan and Heritage Designation Amendments for 1964 Fairfield Road and 507 Foul Bay Road

RECOMMENDATION

1. That this report be received for information and that the following bylaws be given first and second readings:
 - A. Official Community Plan Bylaw, 2012, Amendment Bylaw (No. 54) - No. 24-055
 - B. Official Community Plan Bylaw, 2012, Amendment Bylaw (No. 55) - No. 24-057
 - C. Zoning Regulation Bylaw, Amendment Bylaw (No. 1343) - No. 24-056
 - D. Zoning Regulation Bylaw, Amendment Bylaw (No. 1344) - No. 24-058
 - E. Heritage Designation Bylaw, Amendment Bylaw (No. 2) - No. 24-051
2. That subject to approval in principle at the Public Hearing, the applicant prepare and execute the following legal agreements, with form satisfactory to the City Solicitor prior to adoption of the bylaws:
 - a. provision of a 0.86m wide statutory right-of-way for 1733, 1735 and 1737 Fairfield Road, with terms to the satisfaction of the Director of Engineering and Public Works
 - b. provision of no less than nine two-bedroom units, six two-bedroom units with a den and one three-bedroom unit for 1733, 1735 and 1737 Fairfield Road, to the satisfaction of the Director of Sustainable Planning and Community Development
 - c. securing continued public access to the property at 1964 Fairfield Road, consistent with existing public access hours and locations and permitting temporary closures for private events, to the satisfaction of the Director of Sustainable Planning and Community Development

- d. provision of transportation demand management measures for 1733, 1735 and 1737 Fairfield Road, to the satisfaction of the Director of Engineering and Public Works, including:
 - i. car share memberships and usage credits for all residential units;
 - ii. on-street electric car share vehicle
 - iii. on-street (Beechwood Avenue), level 2, dual head electrical charger, and all associated infrastructure and connections
 - iv. bicycle parking to accommodate oversized bicycles (10% of required long-term spaces)
 - v. bicycle parking with access to an electrical outlet (50% of required long-term spaces)
 - vi. bicycle repair and maintenance station
 - e. **securing that the proposed building will be designed to achieve Step Code 4**
 - f. **provision of required conduits for future solar photovoltaic installation.**
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.

EXECUTIVE SUMMARY

The purpose of this report is to provide an update for Council on the concurrent OCP amendments and Rezoning Applications for 1733, 1735 and 1737 Fairfield Road as well as for 1964 Fairfield Road and 507 Foul Bay Road. Since the application was presented to Committee of the Whole on December 7, 2023, the applicant has worked with staff to address the conditions set by Council and has resubmitted revised plans for consideration. In addition, this report provides an update on the correspondence received from the opportunity for consultation on the OCP amendments, which is required pursuant to section 475 of the *Local Government Act*.

BACKGROUND

This application proposes two concurrent proposals:

- a Rezoning, OCP Amendment and Development Permit with Variances application for 1733, 1735 and 1737 Fairfield Road to permit a four-storey multiple dwelling containing 31 units.
- a Rezoning, OCP Amendment and Heritage Designation Amendment application for 1964 Fairfield Road and 507 Foul Bay Road to limit permitted uses and reduce the density to the existing density and uses, which include a garden, restaurant, and gift shop.

The proposal for 1964 Fairfield Road and 507 Foul Bay Road has been submitted to support the increase in density for the proposed development at 1733, 1735 and 1737 Fairfield Road as the development exceeds the density envisioned for Traditional Residential Urban Place Designation.

The application to expand heritage designation to include the maintenance and support area for Abkhazi Garden (located at 507 Foul Bay Road) and the commitment to secure continued public access to Abkhazi Garden will provide heritage protection to the entire site and provide certainty that public access will remain in perpetuity.

The applications for concurrent consideration came before Council on December 14, 2023, where the following resolution was approved:

OCP Amendments with Rezoning

1. *That Council consider who is affected by the proposed changes to the Official Community Plan (OCP) and determine that those within a 200m radius of the subject properties will be affected.*
2. *That Council provide an opportunity for consultation pursuant to section 475 of the Local Government Act, and direct the Director of Sustainable Planning and Community Development to:*
 - a. *mail a notice of the proposed OCP Amendments to the persons within a 200m radius of the subject property*
 - b. *post a notice on the City's website inviting affected persons, organizations and authorities to ask questions of staff and provide written or verbal comments to Council for their consideration.*
3. *That Council consider that no consultation is necessary with the Capital Regional District Board; Councils of Oak Bay, Esquimalt and Saanich; the Songhees and Esquimalt First Nations; the School District Board; or the provincial or federal governments or their agencies because the proposed OCP Amendments do not affect them.*
4. *That Council instruct staff to prepare the necessary Official Community Plan Amendment Bylaws in accordance with Section 475 of the Local Government Act and the necessary Zoning Regulation Bylaw Amendments that would authorize the proposed development outlined in Rezoning Application No. 00821 for 1733, 1735 and 1737 Fairfield Road and proposed zoning changes outlined in Rezoning Application No. 00845 for 1964 Fairfield Road and 507 Foul Bay Road, that first and second reading of the Zoning Regulation Bylaw Amendments be considered by Council and a public hearing date be set once the following conditions are met:*
 - a. *the following revisions to the plans for 1733, 1735 and 1737 Fairfield Road to the satisfaction of the Director of Sustainable Planning and Community Development:*
 - i. *add an additional two-bedroom unit and convert a one-bedroom unit to a two-bedroom unit, as outlined in the applicant's letter, dated September 12, 2023*
 - ii. *improve the transition to lower density buildings (northeast building elevation)*
 - iii. *increase outdoor amenity space, which may include providing parking underground, reducing parking or adding a rooftop amenity area.*
 - b. *the following revisions to the plans for 1733, 1735 and 1737 Fairfield Road, to the satisfaction of the Director of Engineering and Public Works:*
 - i. *increase permeable paved area to improve onsite stormwater management*
 - ii. *to provide 50% of required long term bicycle parking stalls as standard ground mounted stalls.*
 - c. *plan revision for 1733, 1735 and 1737 Fairfield Road to accommodate more replacement trees required under the Tree Protection Bylaw, to the satisfaction of the Director of Parks, Recreation and Facilities.*

5. *That subject to approval in principle at the Public Hearing, the applicant prepare and execute the following legal agreements, with form satisfactory to the City Solicitor prior to adoption of the bylaws:*
 - a. *provision of a 0.86m wide statutory right-of-way for 1733, 1735 and 1737 Fairfield Road, with terms to the satisfaction of the Director of Engineering and Public Works*
 - b. *provision of no less than nine two-bedroom units, six two-bedroom units with a den and one three-bedroom unit for 1733, 1735 and 1737 Fairfield Road, to the satisfaction of the Director of Sustainable Planning and Community Development*
 - c. *securing continued public access to the property at 1964 Fairfield Road, consistent with existing public access hours and locations and permitting temporary closures for private events, to the satisfaction of the Director of Sustainable Planning and Community Development*
 - d. *provision of transportation demand management measures for 1733, 1735 and 1737 Fairfield Road, to the satisfaction of the Director of Engineering and Public Works, including:*
 - i. *car share memberships and usage credits for all residential units*
 - ii. *on-street electric car share vehicle*
 - iii. *on-street (Beechwood Avenue), level 2, dual head electrical charger, and all associated infrastructure and connections*
 - iv. *bicycle parking to accommodate oversized bicycles (10% of required long-term spaces)*
 - v. *bicycle parking with access to an electrical outlet (50% of required long-term spaces)*
 - vi. *bicycle repair and maintenance station.*
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 (1733, 1735 and 1737 Fairfield Road)

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. 00821 and Rezoning Application No. 00845, if they are 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. 00204 for 1733, 1735 and 1737 Fairfield Road, in accordance with plans submitted to the Planning department and date stamped by Planning on August 22, 2023, subject to:*
 - a. *the proposed development meeting all City zoning bylaw requirements, except for the following variances:*
 - i. *reducing the minimum front yard setback (Beechwood Avenue) from 4.00m to 2.70m and increasing stairs projection from 1.80m to 2.73m*
 - ii. *reducing the minimum rear yard setback from 10.00m to 2.60m*
 - iii. *reducing the minimum side yard setback (Fairfield Road) from 4.00m to 2.30m*
 - iv. *reducing the minimum side yard setback (southeast) from 6.00m to 0.50m*
 - v. *increasing the maximum site coverage from 40% to 65%*
 - vi. *decreasing the open site space from 50% to 23%*

- vii. *reducing vehicle parking from 40 spaces to 23 spaces*
 - viii. *permitting long-term bicycle parking to be provided in a stacked format.*
 - b. *The property being consolidated into one lot.*
2. *That the Development Permit with Variances, if issued, lapses two years from the date of this resolution.”*

Heritage Designation Amendment Application (1964 Fairfield Road and 507 Foul Bay Road)

That Council instruct the Director of Sustainable Planning and Community Development to:

1. *prepare a heritage designation bylaw to amend Heritage Designation (1964 Fairfield Road) Bylaw (No. 530) No. 05-75 to add the property at 507 Foul Bay Road, that first and second reading of the bylaw be considered by Council and that a joint public hearing date be set with Rezoning Application No. 00821 and Rezoning Application No. 00845*
2. *add the Statement of Significance for 1964 Fairfield Road and 507 Foul Bay Road, attached as Attachment G to this report, recognizing the building exterior and natural landscape elements as the historic features of the property, to the above noted heritage designation bylaw.*

The applicant has now responded to the conditions contained in the December 14, 2023 motion to allow a public hearing date to be set. In addition, the applicant is now offering to secure a commitment to design the building to Step 4 This report also provides an update on the opportunity for consultation for proposed changes to the Official Community Plan (OCP).

UPDATE

The following sections provide a summary of the OCP referral and an update on the plan revisions set out in the December 14, 2023 Council motion.

Official Community Plan Referral

1733, 1735 and 1737 Fairfield Road

Notification of the proposed Official Community Plan Amendment was mailed to properties within a 200m radius of the subject properties on June 6, 2024, and a notice was posted on the City's website, inviting affected persons, organizations and authorities to ask questions of staff and provide written or verbal comments to Council for consideration. The comment period ended on July 6, 2024 and out of 350 notifications mailed out, 23 responses were received, which is a 6.6% response rate. A general summary of the commentary received is provided below.

The responses identified the following areas of support:

- provision of needed housing
- aligns well with the Provincial government direction for increasing housing
- does not propose use of natural gas
- support for more density along Fairfield, hope to see similar closer to/in the Plaza.

The responses identified the following areas of concern:

- impact of density on existing capacity of surrounding services and infrastructure
- impact on aesthetic appeal, quality of life and character of the neighbourhood
- potential to exacerbate traffic, parking shortages
- four storey height will impact the neighbourhood look, feel and sightlines
- history of developer to not delivery affordability
- concern for lack of setbacks, useable outdoor space and landscaping
- lack of community amenities proposed to merit the proposed density
- not providing family-focused, attainable housing or rentals
- concern for construction phase impacts
- shade impacts for abutting neighbour at 1745 Fairfield Road
- developer proposed a different building height in early consultations
- densification does not, by default, meet the objectives of the missing middle
- Newer townhomes can cost as much or more than an existing single family and have no suite to reduce mortgage costs
- Support housing but missed opportunity for a mixed used buildings for access to daily needs
- Support the housing but disappointed to see surface parking
- Potential to decrease property value.

1964 Fairfield Road and 507 Foul Bay Road

Notification of the proposed Official Community Plan Amendment was mailed to properties within a 200m radius of the subject properties on June 6, 2024, and a notice was posted on the City's website, inviting affected persons, organizations and authorities to ask questions of staff and provide written or verbal comments to Council for consideration. The comment period ended on July 6, 2024 and out of 255 notifications mailed out, six responses were received, which is a 2.4% response rate.

All responses received were in support of the proposal, which included the following:

- importance of protecting of the garden which is a historic and iconic site
- the garden benefits the community's residents and attracts tourists
- the importance of maintaining public access
- reduction in density and change in permitted uses is appropriate

Revised Proposal for 1733, 1735 and 1737 Fairfield Road

The applicant has submitted a revised application package in response to the Council motion. The following section provides a summary of the revisions made in response to the Council motion as well as other revisions proposed by the applicant.

Height Transition

The motion included a condition to improve the proposed building's transition to lower density buildings with a specific focus on the northeast elevation design. In response, the applicant has revised the proposal to step back a portion of the fourth storey by 2.1m to pull some building mass away from the northeast neighbouring property. The step back does not extend the full length of the northeast building face and will not be visible from Fairfield Road; therefore, the revision will

Update Council Report

Rezoning Application No. 00821, associated Official Community Plan Amendment, and Development Permit with Variances Application No. 00204 for 1733, 1735 and 1737 Fairfield Road & Rezoning Application No. 00845 and associated Official Community Plan and Heritage Designation Amendments for 1964 Fairfield Road and 507 Foul Bay Road

reduce the potential for overlook and privacy impacts but will not alter the appearance from the public realm.

Outdoor Amenity Space

The motion included a condition to increase outdoor amenity space, which would be best addressed by providing parking underground to increase open site space, further reductions in vehicle parking or by adding a rooftop amenity area to better utilize the flat roof being proposed. In response, the applicant provided the following as a rationale for not proposing underground parking:

Underground parking should be avoided where possible as it disturbs significant volumes of soil, introduces a large ramp to the street presence, and limits soil depths for planting. We therefore believe that underground parking is not the correct solution for this site. While we appreciate staff's emphasis on minimizing parking to enhance green spaces, we believe the proposal provides a suitable balance for future homeowners and the neighbourhood at large.

The applicant has proposed more minor revisions to modify ground floor unit entry areas to provide usable space for outdoor seating and more effectively contribute to street activity. As a result of the revisions, all units now include a usable private outdoor space.

Parking Area

The motion also included a condition that the permeable paved area be expanded to improve onsite stormwater management. In response, the applicant has fulfilled this condition by providing permeable area for the portions of the surface parking that are uncovered by the building. The motion also included a condition to provide at least 50% of required long term bicycle parking stalls as standard ground mounted stalls, which has been provided in the revised proposal.

Required Replacement Trees

The motion included a condition to revise the site plan to accommodate additional replacement trees, which was not addressed in the revised proposal. The following was provided in the updated letter to Mayor and Council:

Faced with competing priorities for space and the need to balance design and parking requirements, we are unable to reduce the number of impacted trees or provide more replacement trees on the property. We have however committed to a cash-in-lieu agreement with the Parks department where we can provide \$4,000 for each replacement tree, which is double the financial commitment in the current Tree Protection Bylaw.

Unit Size

Prior to consideration at Committee of the Whole, the applicant submitted a letter that outlined a proposed revision to add an additional two-bedroom unit and convert a one-bedroom unit to a two-bedroom unit by removing a common outdoor amenity space on the third floor. This revision has now been included in the revised plans.

Additional Revisions

The applicant has also submitted revisions that were not in response to the Council motion. Below are the proposed revisions put forward for Council consideration.

Energy Efficiency

As noted in the applicant's letter, the proposed multiple dwelling will be designed to achieve Step Code 4 requirements and will be providing conduit for future solar photovoltaic installation, which exceeds current requirements for residential buildings between four and six storeys. The recommendation includes the necessary language to secure this commitment with a legal agreement prior to final adoption of the Bylaw amendments.

Materiality

The applicant has also revised the building design, specifically replacing the proposed brick with a coated fiber cement cladding. The applicant has cited a need to reduce the cost to deliver the project, and notes additional costs anticipated to achieve Step Code 4 requirements noted above. Although the previously proposed light brick was encouraged as a very high quality and appropriate material choice, the revision is considered supportable because the alternative is high quality, durable and capable of weathering gracefully.

CONCLUSIONS

The Official Community Plan Amendment referral period has concluded, and correspondence received has been attached for Council's consideration. The applicant has also revised the proposal in accordance with Council's previous direction; therefore, the recommendation provided for Council's consideration contains the appropriate language to advance this application to a Public Hearing.

Respectfully submitted,

Patrick Carroll
Senior Planner
Development Services

Karen Hoese, Director
Planning and Development Department

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A – Letter to Mayor and Council dated July 4, 2024
- Attachment B – Revised plans received July 4, 2024
- Attachment C – COTW Report from the meeting held December 7, 2023
- Attachment D – OCP Amendment Correspondence
- Attachment E – OCP Bylaw No. 24-055 for 1733-1737 Fairfield Road
- Attachment F – Rezoning Bylaw No. 24-056 for 1733-1737 Fairfield Road
- Attachment G – OCP Bylaw No. 24-057 for 1964 Fairfield Road and 507 Foul Bay Road
- Attachment H – Rezoning Bylaw No. 24-058 for 1964 Fairfield Road and 507 Foul Bay Road
- Attachment I – Heritage Designation Bylaw No. 24-051 for 1964 Fairfield Road and 507 Foul Bay Road

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