



## Committee of the Whole Report For the Meeting of October 17, 2024

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**To:** Committee of the Whole **Date:** October 3, 2024

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

**Subject:** **Rezoning Application No. 00862 and Development Permit with Variance No. 00252 for 2002 Richmond Road, 1903/1909 Birch Street, and 1769 Pembroke Street**

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### RECOMMENDATION

#### Rezoning Application

1. That Council instruct the Director of Planning and Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff report dated October 3, 2024, for 2002 Richmond Road, 1903/1909 Birch Street, and 1769 Pembroke 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 bylaw amendment be considered by Council once the following conditions are met:
  - a. The following revisions to the plans:
    - i. revise site and landscape plans to meet tree minimum, siting and soil volume requirements in accordance with the *Tree Protection Bylaw* No. 21-035, to the satisfaction of the Director of Parks, Recreation and Facilities
    - ii. revise parking layout to the satisfaction of the Director of Planning and Development to include:
      1. all accessible parking required under Schedule C for all on-site uses
      2. a landscaping buffer
      3. two on-site stalls dedicated to car share vehicles equipped with level two charging stations.
  - b. The following inclusions to the Transportation Demand Management program to the satisfaction of the Director of Planning and Development:

- i. provision of two on-site stalls dedicated to car share vehicles and equipped with level two charging stations installed by the applicant
      - ii. provision of two electric car share vehicles
      - iii. car share memberships and usage credits for all units
      - iv. provision of fifty percent of long-term bicycle parking spaces with access to an electrical outlet to enable E-bicycle charging
      - v. provision of a bicycle wash station with a functioning spigot and drain in a dedicated bicycle maintenance area.
    - c. Any revisions to the variances necessary as a result of plan changes outlined above.
3. That subject to third reading of the zoning amendment bylaw, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Planning and Development and form satisfactory to the City Solicitor prior to adoption of the bylaw:
- a. A housing agreement securing rental in perpetuity and a unit mix consisting of a minimum of twenty-two two-bedroom units.
  - b. Transportation Demand Management agreement including:
    - i. provision of two on-site stalls dedicated to car share vehicles and equipped with level two charging stations
    - ii. a car share membership and usage credit for each residential unit
    - iii. purchase of two electric car share vehicles
    - iv. fifty percent of long-term bicycle parking spaces to have access to an electrical outlet to enable e-bicycle charging
    - v. provision of fifteen at grade on-site long-term oversized cargo bicycle sized stalls 2.4m long x 0.9m wide
    - vi. provision of a dedicated bicycle maintenance and wash station with a functioning spigot and drain
    - vii. a contribution of at least \$40,000 to the BC Transit EcoPASS program for use by residents and employees of the commercial units.
4. That subject to third reading of the zoning amendment bylaw, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor prior to adoption of the bylaw:
- a. A 2.50m wide volumetric statutory right of way along Richmond Road for highway purposes.
  - b. A 1.38 m wide volumetric statutory right of way along Birch Street Road for highway purposes.
  - c. A 1.98 m wide road dedication along Richmond Road for highway purposes to be deposited prior to building permit.

- d. A 1.78 m wide road dedication along Pembroke Street for highway purposes to be deposited prior to building permit.
- e. Provision of the following public realm improvements in accordance with plans dated May 2, 2024:
  - i. City of Victoria standard tree guards for all street trees in grates
  - ii. soil cells to achieve recommended soil volumes for all new street trees
  - iii. design and installation of a grade-raised protected bicycle lane on Richmond Road.
5. That adoption of the zoning 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.
6. That Council require a report with a detailed cost estimate showing that portion that is constructed by the developer and that portion that may require funding by the City for the construction of the Birch Street plaza, complete with funding options, prior to final adoption of the rezoning bylaw.
7. That the above Recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

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

That Council, after giving notice, consider the following motion:

1. That subject to the adoption of the Zoning Regulation Bylaw amendment, Council authorize the issuance of Development Permit with Variances No. 00252 for 2002 Richmond Road, 1903/1909 Birch Street, and 1769 Pembroke Street, in accordance with revised plans submitted to the Planning and Development department subject to:
  - a. Proposed development meeting all City zoning bylaw requirements, except for the following variances:
    - i. reduce the front (Birch Street) setback from 3.0m for the first storey to 1.38m and from 6.0m above the first storey to 0.0m
    - ii. reduce the flanking street (Richmond Road) setback from 2.4m to 0.00m
    - iii. reduce the west side setback from 2.40m above the first storey to 0.59m
    - iv. reduce the east side setback from 2.40m above the first storey to 0.0m
    - v. reduce the internal north and west lot line setbacks from 2.40m above the first storey to 0.0m
    - vi. reduce the parking minimum from eighty-seven stalls to thirteen stalls
    - vii. increase maximum distance for bike parking from building entrance from 15m to 17.5m

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. The relevant rezoning consideration is the increase in density to a maximum of 2.89:1 Floor Space Ratio (FSR).

Relevant DPV considerations include the application's consistency with design guidelines and the 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 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*. 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 revitalization of an area in which a commercial use is permitted, 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 Application and Development Permit with Variances Application (DPV) for the property located at 2002 Richmond Road, 1903/1909 Birch Street and 1769 Pembroke Street. The proposal is to rezone from the C-1 Zone, Limited Commercial District (2002 Richmond Road), and the R1-B Zone, Single Family Dwelling District (1903/1909 Birch Street and 1769 Pembroke Street), to a site-specific zone to increase the density and allow a mixed-use building with commercial at the ground level and multi-unit residential rental above. The concurrent DPV Application pertains to the proposed form, character, exterior design, finishes and landscaping and variances related to setbacks and vehicle parking.

The following points were considered in assessing the Rezoning Application:

- The proposal is consistent with the use and built form in the applicable *Official Community Plan* (OCP) Urban Residential Urban Place Designation.
- The proposal exceeds density maximums envisioned in the Urban Residential designation (up to approximately 2:1); however, the project advances other strategic priorities to provide primarily market rental housing as well as advancing pedestrian prioritization policies. The subject properties are on the edge of a Large Urban Village urban place designation. As greater density is envisioned immediately adjacent to the site, this is a suitable transitional scale of development between two urban place designations.
- The proposal is generally consistent with the *Jubilee Neighbourhood Plan, 1996* (JNP) policies and approaches to new development. The proposal respects the character of the existing neighbourhood by maintaining the flat-iron building approach of the existing Turner Building that the proposal is replacing. The proposal does not satisfy the general direction of the JNP to reduce the allowable height of future apartment developments.
- The proposal contemplates the closure of Birch Street for the development of a public plaza. Construction of the plaza would be at the City's expense but is generally supported by policy. The exact cost to the City is not known at this time, but a recommendation to report back on cost and funding options has been included in the report.

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

- The proposal is generally consistent with the *Multi-Unit Residential, Commercial and Industrial Guidelines* for Development Permit Area 5: Large Urban Village.
- The proposed setback variances are considered supportable given the constrained nature of the site and the objectives (secured rental housing) that are achieved by the proposal.
- The residential parking variance is considered supportable if all the required accessible parking and all the recommended Transportation Demand Management measures are provided. The TDM measures proposed by the applicant do not meet the recommended minimum to offset the significant parking variance that is requested.

Based on the assessment of these applications, it is recommended that they be advanced, subject to the conditions outlined in the recommendation. An alternate recommendation is provided at the end of this report should Council wish to advance the applications as presented by the applicant.

## **Description of Proposal**

This proposal is to rezone and consolidate the properties at 2002 Richmond Road, 1903/1909 Birch Street and 1769 Pembroke Street to increase the density and construct a six-storey rental residential building with commercial uses at grade, a rooftop amenity space, and a surface parking lot. The applicant has also designed a plaza on Birch Street, with the City providing additional funding beyond the applicant's standard frontage cost. A density to 2.89:1 floor space ratio and would be accommodated in a new zone.

The associated DPV is for the form, character, and landscaping of the proposed redevelopment and includes the following variances:

- reduce the front (Birch Street) setback from 3.0m for the first storey to 1.38m and from 6.0m above the first storey to 0.0m

- reduce the flanking street (Richmond Road) setback from 2.4m to 0.00m
- reduce the west side setback from 2.40m above the first storey to 0.59m
- reduce the east side setback from 2.40m above the first storey to 0.0m
- reduce the internal north and west lot line setbacks from 2.40m above the first storey to 0.0m
- reduce the parking minimum from eighty-seven stalls to thirteen stalls
- increase maximum distance from entrance for bike parking from 15m to 17.5m.

## **BACKGROUND**

### **Land Use Context and Existing Site Development Potential**

The site area is shown in Figure 1. The area is characterized by a range of commercial and office uses, as well as public buildings (Royal Jubilee Hospital), and residential uses. The recently completed Amica Jubilee House assisted living facility is directly across Birch Street to the southwest.

The only existing structure on-site is the Turner Building, which is not in use (see Relevant History section below).

Under the current C-1 Zone, the property at 2002 Richmond Road could be developed for a range of commercial uses, as well as residential mixed-use buildings up to a maximum FSR of 1.4:1. Under the current R1-B Zone, the properties at 1903/1909 Birch Street and 1769 Pembroke Street could be developed with single family dwellings and associated accessory uses. The subject properties would also qualify as restricted lots under the provincial Small Scale Multi-Unit Housing regulations and could be developed with multi-family housing units.

### **Relevant History**

While the building on the subject property is not heritage designated or registered, its distinctive flat-iron features made it a prominent building in the area. Dating from 1946, the combination of the Art Deco design and building shape of the rounded front on the Richmond Road façade created a distinctive form in a prominent location. Previous commercial services housed in the building functioned as a community hub. These past uses included a confectionary shop, a coffee shop, a barber shop and a shoe repair shop.

More recently the building has fallen into a state of disrepair. A 2015 application that would have retained the building with a heritage designation did not proceed. While the current state of the building requires demolition, some of the previous building uses and flat-iron character are proposed to be replaced in this application.



Figure 1. Site Area

## 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 August 28, 2023. Mailed notification was sent to owners and occupiers of property within 200m 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 an in-person meeting with the CALUC on September 13, 2023. A letter dated October 9, 2023 along with the comment forms are attached to this report (see Attachments G and H).

Of the nine responses received from the comment forms, six were in support, one in opposition, and two in support with modifications. Reasons for support were based on the provision of additional housing and the redevelopment of the derelict building. The suggested revisions were the inclusion of three-bedroom apartments and more parking. The reason given for opposition was associated with the amount of density proposed for the site.

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.

The associated application proposes variances, therefore, in accordance with the City's *Land Use Procedures Bylaw*, it requires notice, sign posting and a meeting of Council to consider the variances.

## **ANALYSIS**

### **Rezoning Application**

#### Official Community Plan

The subject site is designated Urban Residential in the *Official Community Plan*, which envisions low and mid-rise buildings up to approximately six-storeys and an FSR of up to 1.2:1 (see Data Table in Attachment C). Increased densities up to approximately 2:1 FSR are considered in locations that support the growth management concept in the plan, such as in proximity to Urban Villages, Town Centres and Transit Priority Corridors, where public benefit is provided consistent with the objectives of the OCP and other City policies, including local area plans.

The properties are adjacent to the Jubilee Large Urban Village, which envisions four to six-storeys and an FSR of 1.5:1, and increased density when there is a public benefit of up to approximately 2.5:1 FSR. Fort Street and Richmond Road are Transit Priority Corridors in the OCP. Additionally, the proposed purpose-built rental units support the advancement of OCP housing objectives. Although the proposed density of 2.89:1 FSR (approximately 2.72:1 pre-road dedication) and seven stories (including rooftop amenity area) exceed the urban place designation height and density, given the advancement of other city housing objectives, including public realm improvements, the increased density is considered supportable at this location.

#### Jubilee Neighbourhood Plan

Policies in the *Jubilee Neighbourhood Plan* (JNP, 1996) encourage new developments to:

- respect the character of the existing neighbourhood and street variety through the scale and form of housing
- respect the balance between adequate parking and green space
- have sufficient parking to meet the project needs
- consider non-profit and rental housing
- fit with the form and character of established housing through the massing, scale, and architectural detailing of the new building



- be designed to build a sense of community, with community space, and outdoor space
- not create orphan lots.

The site is constrained due to the geometry of the lots. Land assembly with the remaining parcels to the west of the site (1761 Pembroke Street and 1911 Birch Street) would result in a much more efficient site plan and land use. However, the applicant has indicated that is not currently possible. The proposed parking area on the north side of the site fronting Pembroke Street allows for a more sensitive transition to the neighbouring single-family dwellings and retains the opportunity to develop this corner of the block in the future with a comprehensive plan if the adjacent properties are acquired.

The application is considered generally consistent with the neighborhood plan, as it fits the existing scale, form and character of the area. The development replaces the flat-iron built form that has defined the site for decades with a similar design approach. The secured rental housing is consistent with the intent of the JNP, as is the inclusion of commercial uses on the ground floor.

The proposal does not satisfy all aspects of the JNP, in particular the goal of reducing the overall scale of development. The proposal also does not provide an appropriate balance between green space and paved areas on-site; much of the open space is provided through a proposed plaza which is on the City right of way and would be constructed by the applicant at the City's expense.

In the absence of a more robust TDM package that aligns with the report recommendation, this proposal does not meet on-site parking demand and is therefore inconsistent with this aspect of the neighborhood plan.

#### Inclusionary Housing and Community Amenity Contribution Policy

As a purpose-built market rental project with secured rental tenure, the Inclusionary Housing and Community Amenity Contribution Policy does not require additional contribution.

#### Housing

The application, if approved, would add approximately 55 new residential market rental units, which would increase the overall supply of housing in the area and contribute to the targets set out in the *Victoria Housing Strategy*.

#### *Housing Mix*

For purpose built rental projects, the Family Housing Policy that came into effect on September 1, 2024, requires that a minimum of 25% of the total project dwelling units contain two or more bedrooms, with a minimum of 5% of total units containing three or more bedrooms. The application, which was submitted prior to the policy coming into effect, proposes ten studio, 25 one-bedroom and 20 two-bedroom units but does not include any three-bedroom units (one three-bedroom unit would be required under the Policy). As a rational, the applicant has indicated that due to the constrained floorplate and the placement of the shear walls, modifying the unit size from one floor to the next would be challenging. Further, the proposal exceeds the requirement for two-bedroom units, at 36% of the total units.

The applicant has indicated that they are willing to secure the number of two-bedroom units in a legal agreement.

### *Security of Tenure*

A Housing Agreement is proposed which would secure all proposed residential units as rental in perpetuity.

### *Existing Tenants*

There are no existing tenants; therefore, a Tenant Assistance Plan is not required.

### Public Realm

The applicant is proposing the creation of a Birch Street Plaza, in partnership with the City of Victoria, which would require the closure of a portion of Birch Street at the intersection with Richmond Road east of the driveway access to 1900 Richmond Road (Amica Jubilee House). Access through the plaza would be restricted to emergency vehicles, bicycles, and pedestrians. The plaza would provide space for four of the six street trees (so they can be large canopy trees at maturity), as well as support active ground floor commercial uses with patios and an abundance of space for pedestrian circulation and seating areas.

The creation of the plaza in the specified location is supported by city policy. Common Place Characteristics in the OCP for commercial and mixed-use areas include public squares and open spaces. The Large Urban Village land use designation in the OCP envisions these areas will have public squares and greens. The design considerations for this land use designation also encourages the use of design and traffic calming techniques to reduce vehicle travel speed, provide safe access and passage for other road users, balance business and residential parking needs, and permit the temporary closure of streets for community activities or special events.

The OCP Neighbourhood Directions for Jubilee also supports the creation of the plaza, as it encourages improved integration of open spaces into Urban Villages and improved streetscape and pedestrian conditions throughout the neighbourhood.

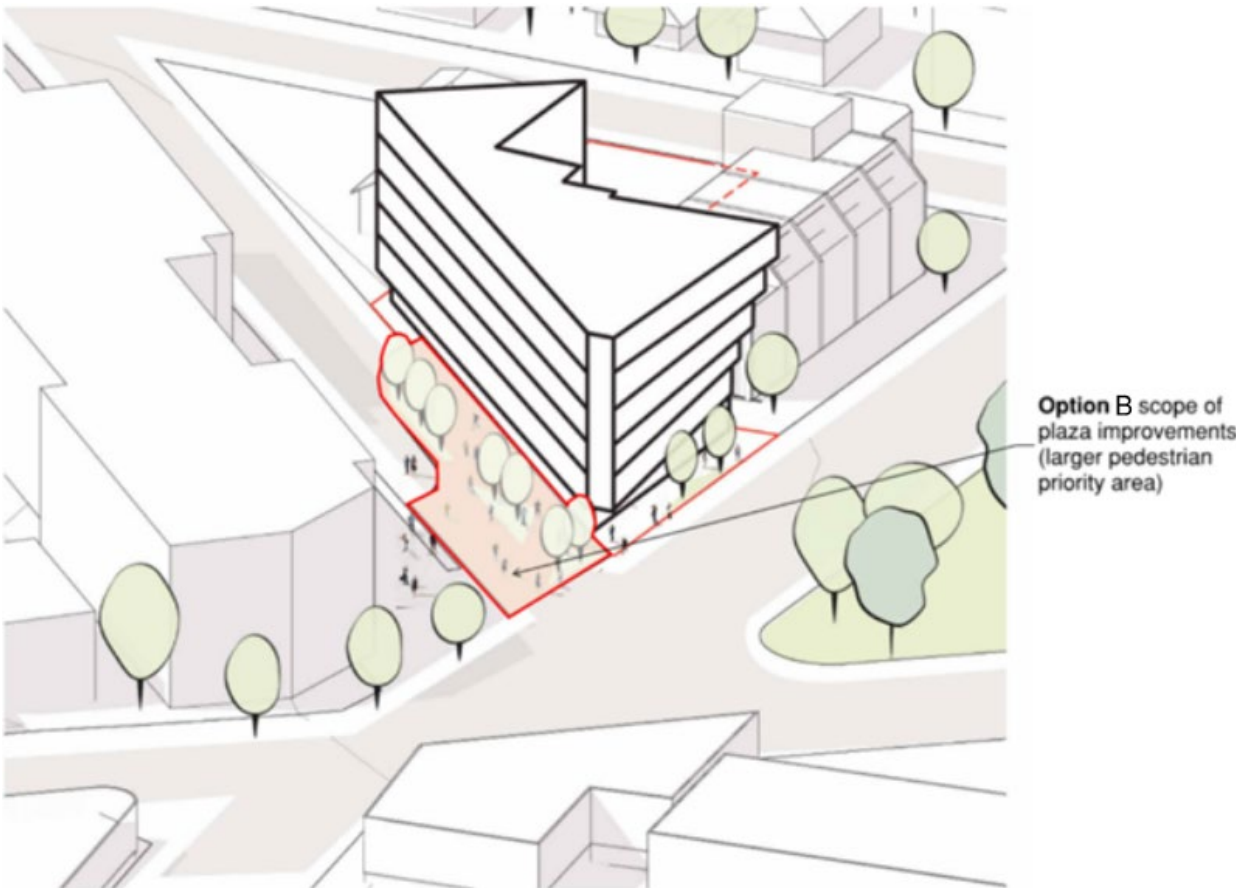
The direction to develop a plaza is consistent with the [January 18, 2024](#), Council motion directing staff to explore opportunities to “...identify, accelerate, and pilot shared street or partial or complete road closures to create or enable new boulevards, community spaces, placemaking initiatives, and green spaces”. To support vehicle circulation in conjunction with restricting vehicle access on Birch Street at Richmond Road, two-way traffic is proposed to be reinstated on Ashgrove Street (currently restricted as one way north between Fort Street and Begbie Street) which has capacity (~200 vehicles per day) and suitable width to support this change.

This report brings forward two options for frontage design:

- Option A – No Plaza (not recommended): Applicant installs typical frontage requirements and two-way traffic on Birch Street continues to be permitted. A plaza at this location would be considered at a future date and implemented by the City subject to a future funding approval of unknown cost. Option A would see the installation of standard frontage

improvements. Option A is not recommended as it does not leverage an opportunity to achieve an improved public realm in support of OCP goals and objectives.

- Option B – Full Plaza (recommended): Birch Street frontage works are built in partnership with the City. Plaza improvements would extend beyond centreline and tie into the existing curb on the south side of Birch Street. Plaza improvements would be designed and constructed by the applicant to the satisfaction of the Director of Engineering, with funding provided by the City. Construction of the plaza would require the closure of that portion of Birch Street, as identified in plans dated May 2, 2024, to all traffic except emergency vehicle, bicycle, and pedestrian access.



**Figure 3: Option B – Plaza**

### **Development Permit with Variance Application**

#### Official Community Plan: Design Guidelines

The *Official Community Plan* (OCP) identifies this property within [DPA 5: Large Urban Villages – Jubilee Village](#) which envisions a mix of commercial and community services, and the revitalization of areas into complete large urban villages. The creation of complete villages is to be achieved through human scale design, streets, squares, and other spaces that increase vibrancy and strengthen commercial viability. The DPA also specifies that design should encourage cycling and pedestrian modes of transportation and ensure sensitive transitions between the Royal Jubilee Hospital and surrounding areas.

The proposal is subject to the *Design Guidelines for: Multi-Unit Residential, Commercial, and Industrial* (2012, revised 2019), as well as the *Guidelines for Fences, Gates and Shutters* (2010).

### *Context and Transition*

The *Multi-Unit Residential, Commercial, and Industrial Guidelines* include specific guidelines to ensure that new development is compatible with the character of established areas. The proposed building is consistent with the envisioned OCP and built form in the Urban Place Designation, though it does exceed the envisioned density. The character of the building is sympathetic to the existing flat-iron built form of the Turner Building, and in doing so, respects the existing character of the neighbourhood. The proposal is also similar to the height of the recently completed Amica Jubilee House at six storeys. The north lot line setback leaves little space for transition to the commercial medical use building. However, given the office use in the adjacent building, and the window placement on the proposed building, there is little concern about privacy and overlook issues. The lot shape and setback of the adjacent single family residential building west on Birch Street provides an adequate transition area.

### *Relationship to the Street*

The *Multi-Unit Residential, Commercial, and Industrial Guidelines* stress the importance of new development that contributes to the cohesion, identity, and quality of the adjacent streetscapes and create a strong relationship to the street. This can be accomplished in several ways, both through architectural expression (variations in building height, rooflines, and massing) and the uses that provide direct street access (commercial) at the ground level. The proposal generally satisfies these requirements by providing a strong street presence through the delivery of the ground floor commercial retail unit. The reestablishment of a ground floor commercial retail use is especially significant given the current derelict nature of the building and lack of any uses on-site.

If the Birch Street plaza is funded by the City, the streetscape will be significantly enhanced by providing areas for residents to gather and enjoy outdoor space.

The existing Turner Building sits at essentially a zero-metre lot line setback from Richmond Road. The proposed building will increase the setback of the ground floor and have the upper floors fan out to the new lot line, over top of a proposed statutory right of way (SRW). The 2.5m SRW and 1.98m dedication that is being secured along Richmond Road will allow for long-term improvements in both the pedestrian and multi-modal transportation realms.

### *Scale and Massing*

The design guidelines encourage distinctive massing, building articulation, and architectural treatments for corner sites. Given the site's history as a representative flat-iron building in the city, it is appropriate that the proposed replacement continues this approach. The constrained nature of the site geometry also dictates the floorplate shape.

Upper floors of mid-rise building are encouraged to be stepped back, which is not achieved in the proposed application. Again, given the shape of the lot, as well as the impact on building placement due to SRWs and road dedication, incorporating a step back on the upper storeys is likely not feasible; however, the fanning out of the upper storeys does achieve a distinctive massing and

provides an articulated façade that helps to break up the building massing, consistent with the guidelines.

### *Open Space and Landscaping*

Site landscaping is intended to be usable and well integrated into the design of the building, with features that help to distinguish between public and private space. Given the shape of the building site and the associated constraints, nearly all of the on-site open space is taken up by surface parking. There is limited opportunity to achieve additional landscaped open space without a further reduction in parking stalls. To help mitigate the lack of at-grade open space, the applicant is proposing a rooftop amenity space as the outdoor area for residents of the building. However, approximately only twenty-one of the proposed units (38%) have a functional (i.e. not a Juliette) balcony. The majority of the units will not have private outdoor space.

The closure of Birch Street, though off-site and City property, would greatly improve the open space area available to residents of the building as well as patrons of the commercial retail units. The build out of the plaza, as designed by the applicant, would allow the greatest utilization of the closure area by not only residents of the building but all pedestrians as a space to gather and socialize. The plaza area would also allow for greater tree planting area and achieve greater canopy cover and landscaping.

### *Parking*

The guidelines recommend that parking is provided underground where possible. The guidelines also stress that pedestrian and vehicle conflicts should be minimized in site design, with minimal disruption to pedestrian circulation. Surface parking is discouraged in new developments. Where unavoidable, surface parking should be screened in some manner.

As a result of the lot shape, no underground parking is proposed – all 13 stalls will be provided at surface level with minimal screening. While this arrangement does not fully satisfy the design guidelines, there remains the possibility that future development of the block could result in the reuse of the surface parking space and the relocation of the proposed parking underground.

As noted below, tree minimums are not being met on-site. The likeliest place to make up the additional requirements are in the parking area; however, to meet minimum soil volume and setback requirements, some additional removal of parking stalls may be required.

### Variances

#### *Setbacks*

The proposal requires variances to all lot line setbacks except for the rear lot line setback (Pembroke Street) which exceeds the requirement. The proposed setbacks require significant variance, down to 0.0m for at least some portion of the building on all elevations other than the rear.

The setbacks are proposed as a result of the constrained nature and the unique site geometry that is driving the building design. Not only is the applicant proposing significant reductions in lot line setbacks but is proposing that upper portions of the building extend into statutory rights of way on

Birch Street and Richmond Road. The applicant has indicated that without the projections into the SRWs the restricted floor plate would reduce the number and mix of units, making the project unviable (see Attachment E).

The impacts of the reduced setbacks are generally expected to be minimal due to the surrounding context. However, due to the irregular lot shape of the proposed building, it is situated approximately 0.35m away, at its closest point, from the medical service building at 2020 Richmond Road. This pinch point is mitigated through reduced building openings.

The closest setback to a residential property is at the western extent of the proposed development (what is currently addressed as 1903/1909 Birch Street) and the adjacent property at 1911 Birch Street. The requested west side setback is a significant reduction. This reduction does not exist for the entire length of the west lot line due to the shape of the proposed building. Much of the massing on the west lot line would conform to the required setback.

### *Parking*

The applicant is seeking a residential vehicle parking reduction from 87 to 13 stalls. The reduction in vehicle parking stalls is considered supportable when offset by a comprehensive Transportation Demand Management (TDM) program. The TDM program that the applicant is proposing includes (see also Attachment F for the applicant's Traffic Impact Assessment):

- one dedicated on-site car share stall and car share vehicle
- two level two EV charging stations (one on-site and one on Birch Street)
- car share memberships and usage credit for each residential unit
- \$40,000 contribution to BC Transit's EcoPass program.
- enhanced bicycle parking (oversupply of stalls, improved access to bicycle parking, bicycle repair station)
- end of trip facilities (shower, changeroom, and lockers) for employees of commercial retail unit.

Although the TDM program offered includes several supportable components, the program lacks the effectiveness that is required to offset the significant parking variance that has been requested. The recommended TDM proposes the following additional measures which are consistent with other similar projects:

- two car share vehicles
- two on-site stalls reserved for the car share vehicles with level two charging stations
- fifty percent electrified bicycle stalls
- bike wash station with water spigot.

Car share vehicles and transit passes (e.g. BC Transit's EcoPass program) are some of the most effective TDM programs. As such, the applicant has been asked to strengthen the proposed TDM program by providing two car share vehicle stalls and the full purchase price of each vehicle. The measures recommended are equitable and consistent across other types of development applications including secured rental.

A revision to the TDM measures is recommended prior to advancing the application to introductory bylaw readings. The direction to secure the recommended TDM measures is also included in the main motion. The applicant has stated the rationale for the alternative measures in letters to Mayor and Council (see Attachments). If Council does not wish to require the recommended TDM, an alternate option to require only the applicant's proposed TDM is also provided.

The applicant is proposing to undersupply the required accessible parking by only providing one accessible stall and one van accessible stall instead of three accessible stalls, one van accessible stall and one visitor van accessible stall. The variance to the accessible parking requirement is not supportable; ensuring there is adequate accessible parking ensures that the residential and commercial uses are available to all users with different mobility needs. A revision to the accessible parking layout is recommended prior to advancing the application to introductory bylaw readings.

It is also recommended that any of the remaining parking stalls that are not designated as accessible or reserved for car sharing be reserved for visitor and commercial parking only. Given the low amount of parking proposed to be available on-site, residents should be aware that there is no likelihood of acquiring an on-site stall.

#### Advisory Design Panel

The application was reviewed by the Advisory Design Panel (ADP) on February 28, 2024. At that meeting, the following motion was passed:

*That the Advisory Design Panel recommend to Council that Development Permit with Variances Application No. 00252 be approved as presented.*

While no revisions were recommended by the ADP, the applicant has addressed concerns raised in the ADP report including revising the residential entry to be more distinctive.

#### Tree Preservation Bylaw and Urban Forest Master Plan

The proposal does not currently meet the minimum tree requirement of seven trees on-site. It is recommended that the proposal be revised to include the required trees. Given site constraints, these trees may need to be located in the parking area, which could further reduce the overall parking count.

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.

Eight trees have been inventoried. Of these, there are two bylaw protected trees on the subject lot that will require removal as they are immediately adjacent to an area where excavation will occur. Five trees on neighbouring lots will be retained throughout the development following mitigation measures outlined in the arborist report.

The landscape plan shows three replacement trees on level one and five replacement trees on the rooftop. Cash-in-lieu will be required for two replacement trees which have not been accommodated in the proposed site layout. The option to provide cash-in-lieu of two trees would be

more supportable if the shortfall resulted from meeting the accessible parking stall requirement, as recommended.

If the development of the plaza is not supported by Council, three new municipal trees in irrigated soil cells are proposed along the Richmond Road frontage and six new municipal trees are proposed along the Birch Street frontage in a narrow, irrigated boulevard with soil cells to enhance soil volumes.

## Resource Impacts

### Birch Street Plaza

As noted in the Public Realm section above, the applicant has designed a plaza on Birch Street in partnership with the City of Victoria. If approved by Council, the City will be required to contribute the cost of construction; this cost would equate to the amount beyond a typical frontage improvement that would normally be paid by the applicant.

The applicant has provided an initial Class D cost estimate (plus or minus 20% accuracy) dated April 26, 2024, indicating the cost of the plaza at \$325,639 above the cost of standard frontage replacement (which would be the applicant's cost). The estimate has not been independently verified; therefore, a recommendation is included to obtain a more accurate cost estimate prior to Council authorizing the funding for the plaza. This information will be included in an update report, as well as options for funding.

If Council approves the proposed plaza plan with City contributions, the funding would be allocated via the financial plan process in the year that construction is to occur.

If Council decides not to provide funding, either by not endorsing the proposed plan at time of this report, or by not approving the funding request at a future date, the applicant would be required to complete standard frontage works.

### Parks Resource Impacts

Summarized in the table below are the annual maintenance costs that would be incurred with this application:

Increased Inventory	Annual Maintenance
Nine net new municipal trees in grates	\$540
Irrigation	\$600
Turf boulevard maintenance	\$300

## CONCLUSIONS

The proposal is generally consistent with the applicable policy and design guidelines. The increase in density above that envisioned in the OCP is considered supportable given the furtherance of other City goals including secured rental housing and improved public realm and mobility corridor.



If the recommended revisions are incorporated into the proposal, all variances are recommended for support as appropriate for the scale of the project and constraints of the site.

## **ALTERNATE MOTIONS**

**Alternate – As proposed by the applicant** (this alternate motion eliminates #2 of the staff recommendation, which is intended to address minimum tree requirements, minimum accessible parking requirements and more comprehensive TDM measures to mitigate the undersupply of parking).

1. That Council instruct the Director Planning and Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff report dated October 3, 2024 for 2002 Richmond Road, 1903/1909 Birch Street, and 1769 Pembroke 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 bylaw amendment be considered by Council.
3. That following the third reading of the zoning amendment bylaw, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Planning and Development and form satisfactory to the City Solicitor prior to adoption of the bylaw:
  - a. The property shall be rental in perpetuity and a unit mix consisting of a minimum of twenty-two two-bedroom units.
  - b. Transportation Demand Management agreement including:
    - i. provision of one on-site stall dedicated to a car share vehicle and equipped with a level two charging station to the satisfaction of the Director of Planning and the car share service provider
    - ii. one electric car share vehicle
    - iii. car share memberships for all residential units
    - iv. provision of a bicycle maintenance station
    - v. fifteen at grade on-site long-term oversized cargo bicycle sized stalls 2.4m long x 0.9m wide
    - vi. a contribution of at least \$40,000 to a BC Transit bus pass program for use by residents and employees of the commercial units.
4. That subject to third reading of the zoning amendment bylaw, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor prior to adoption of the bylaw:
  - a. A 2.50m wide volumetric statutory right of way along Richmond Road for highway purposes.
  - b. A 1.38 m wide volumetric statutory right of way along Birch Street Road for highway purposes.

- c. A 1.98 m wide road dedication along Richmond Road for highway purposes to be deposited prior to building permit.
- d. A 1.78 m wide road dedication along Pembroke Street for highway purposes to be deposited prior to building permit.
- e. Provision of the following public realm improvements in accordance with plans dated May 2, 2024:
  - i. City of Victoria standard tree guards for all street trees in grates
  - ii. soil cells to achieve recommended soil volumes for all new street trees
  - iii. design and installation of a grade-raised protected bicycle lane on Richmond Road.
5. That adoption of the zoning 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.
6. That Council require a report with a detailed cost estimate showing that portion that is constructed by the developer and that portion that may require funding by the City for the construction of the Birch Street plaza, complete with funding options, prior to final adoption of the rezoning bylaw.
7. That the above Recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

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

That Council, after giving notice, consider the following motion:

1. That subject to the adoption of the Zoning Regulation Bylaw amendment, Council authorize the issuance of Development Permit with Variances No. 00252 for 2002 Richmond Road, 1903/1909 Birch Street, and 1769 Pembroke Street, in accordance with revised plans submitted to the Planning and Development department subject to:
  - a. Proposed development meeting all City zoning bylaw requirements, except for the following variances:
    - i. reduce the front (Birch Street) setback from 3.0m for the first storey to 1.38m and from 6.0m above the first storey to 0.0m
    - ii. reduce the flanking street (Richmond Road) setback from 2.4m to 0.00m
    - iii. reduce the west side setback from 2.40m above the first storey to 0.59m
    - iv. reduce the east side setback from 2.40m above the first storey to 0.0m
    - v. reduce the internal north and west lot line setbacks from 2.40m above the first storey to 0.0m
    - vi. reduce the parking minimum from eighty-seven stalls to thirteen stalls

- vii. increase maximum distance for bike parking from building entrance from 15m to 17.5m
2. That the Development Permit with Variances, if issued, lapses two years from the date of this resolution.

Respectfully submitted,

Geordie Gordon  
Senior Planner  
Development Services Division

Karen Hoese  
Director  
Planning and Development Department

**Report accepted and recommended by the City Manager**

**List of Attachments**

- Attachment A: Plans date stamped May 2, 2024
- Attachment B: Standard Frontage Plans date stamped June 21, 2024
- Attachment C: Zoning Data Table
- Attachment D: Letter from applicant to Mayor and Council dated October 18, 2023
- Attachment E: Letter from applicant to Mayor and Council dated July 10, 2024
- Attachment F: Traffic Impact Assessment dated April 5, 2024
- Attachment G: Community Association Land Use Committee Comments dated October 18, 2023
- Attachment H: Pre-Application Consultation Comments from Online Feedback Form
- Attachment I: Correspondence (Letters received from residents)
- Attachment J: Advisory Panel Minutes
- Attachment K: Arborist Report dated February 14, 2024