



Committee of the Whole Report

For the Meeting of October 26, 2017

To: Committee of the Whole **Date:** October 12, 2017

From: Jonathan Tinney, Director, Sustainable Planning and Community Development

Subject: **Update on Rezoning Application No. 00525 and Development Permit with Variances Application No. 00035 for 1201 Fort Street and 1050 Pentrelew Place, and associated Official Community Plan Amendment**

RECOMMENDATION

Rezoning Application No.00525 and associated Official Community Plan Amendment

That Council instruct staff to prepare the necessary Official Community Plan Amendment Bylaw in accordance with Section 475 of the *Local Government Act* and the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00525 for 1201 Fort Street and 1050 Pentrelew Place, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council, and a Public Hearing date be set once the following conditions are met:

1. Preparation of the following documents, executed by the applicant, to the satisfaction of City Staff:
 - a. Housing Agreement to ensure that a future strata corporation could not pass bylaws that would prohibit or restrict the rental of units to non-owners
 - b. Housing Agreement to ensure that ten percent of the approved unit count, being no less than ten units, be provided as affordable rental units on another site within the City of Victoria
 - c. Statutory Right-of-Way of 1.86m along the Pentrelew Place frontage
 - d. Statutory Right-of-Way of 2.4m for the provision of a public pathway connecting Fort Street to Pentrelew Place
 - e. Statutory Right-of-Way of 2.4m for the provision of a future public pathway along the west side of the property
 - f. Section 219 Covenant for public realm improvements to Fort Street and Pentrelew Place
 - g. Section 219 Covenant for construction and maintenance of the public pathways.
2. Provision of a tree protection plan for the Bylaw protected trees that identifies the location of the tree roots, the location of proposed construction and site services

in relation to the root system, and the driveway construction methodology, to the satisfaction of City staff.

3. That Council determine, pursuant to section 475(1) of the *Local Government Act*, that the affected persons, organizations and authorities are those property owners and occupiers within a 200m radius of the subject properties; that the appropriate consultation measures would include a mailed notice of the proposed Official Community Plan Amendment to the affected persons; posting of 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.
4. That Council, having provided the opportunity for consultation with persons, organizations and authorities it considers will be affected, specifically, the property owners and occupiers within a 200m radius of the subject properties have been consulted at a Community Association Land Use Committee (CALUC) Community Meeting, consider whether the opportunity for consultation should be early and ongoing, and determine that no further consultation is required, pursuant to Section 475(1) of the *Local Government Act*.
5. That Council, specifically consider whether consultation is required under Section 475(2)(b) of the *Local Government Act*, and determine that no referrals are necessary with the Capital Regional District Board, Councils of Oak Bay, Esquimalt and Saanich, the Songhees and Esquimalt First Nations, the School District Board and the provincial and federal governments and their agencies due to the nature of the proposed amendment.
6. That Council give first reading to the Official Community Plan Amendment Bylaw.
7. That Council consider the Official Community Plan Amendment Bylaw in conjunction with the City of Victoria 2012-2016 Financial Plan, the Capital Regional District Liquid Waste Management Plan and the Capital Regional District Solid Waste Management Plan pursuant to Section 477(3)(a) of the *Local Government Act*, and deem those Plans to be consistent with the proposed Official Community Plan Amendment Bylaw.
8. That Council give second reading to the Official Community Plan Amendment Bylaw.
9. That Council refer the Official Community Plan Amendment Bylaw for consideration at a Public Hearing.

Development Permit with Variances Application No. 00035

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. 00525, if it is approved, consider the following motion:

"That Council authorize the issuance of Development Permit with Variances Application No. 00035 for 1201 Fort Street and 1050 Pentrelew Place, in accordance with:

1. Plans date stamped September 8, 2017.
2. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:
 - a. increase the maximum height for Building A from 12.00m to 21.42m
 - b. increase the maximum height for Building B from 12.00m to 15.11m
 - c. increase the maximum site coverage from 40% to 57.20%
 - d. reduce the Fort Street setback for Building A from 10.50m to 6.00m (to the building)
 - e. reduce the south setback for Building B from 9.00m to 4.67m
 - f. reduce the west setback for Building A from 10.7m to 4.00m (to the parkade structure)
 - g. reduce the west setback for Building B from 7.56m to 0.60m (to ground floor parking area and patio screen)
 - h. reduce the Pentrelew Place setback for Buildings C,D and E from 5.37m to 2.00m (to buildings) and 1.91m (to stairs)
 - i. reduce the required parking from 132 parking stalls to 121 parking stalls
 - j. reduce the required visitor parking from 12 stalls to 9 stalls.
3. Refinement of balcony materials on Buildings A and B to the satisfaction of the Director of Sustainable Planning and Community Development.
4. The Development Permit lapsing two years from the date of this resolution.

LEGISLATIVE AUTHORITY

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.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with new information, analysis and recommendations regarding a Rezoning Application for the properties located at 1201 Fort Street and 1050 Pentrelew Place. At the Council meeting of April 13, 2017, Council passed a motion directing the applicant to revise several elements of the proposal, and that the revised application be brought back to Committee of the Whole.

Given that the applicant has revised the proposal to address the conditions outlined in the Council motion, staff are recommending for Council's consideration that the Rezoning and Development Permit with Variances proceed for consideration at a Public Hearing.

BACKGROUND

Description of Proposal

Similar to the previous proposal, the revised proposal is to rezone from the R3-AM2 Zone, Mid-Rise Multiple Dwelling District, and the R1-B Zone, Single Family Dwelling District, to a new site specific zone in order to increase the density and allow for the construction of a six-storey multi-unit residential building, a four-storey multi-unit residential building and ten townhouses.

The request to amend the *Official Community Plan, 2012 (OCP)*, to designate the south portion of the site as Urban Residential, consistent with the north portion of the site, is necessary because the application proposes to redistribute the height and density slightly to the south. The proposed number of storeys for the multi-unit residential buildings and the overall floor space ratio of 1.39:1 exceeds the height and density envisioned for sites designated as Traditional Residential; however, the proposed density of 1.39:1 is generally consistent with the maximum envisioned in the OCP. In addition, the amendment would extend the boundary of DPA 7B (HC) – Corridors Heritage to encompass the entire site.

The Committee of the Whole (COTW) reports for Rezoning Application No. 00525 and Development Permit with Variances Application No. 00035 dated March 23, 2017, and presented at the COTW meeting of April 13, 2017, are attached for additional information and reference.

On April 13, 2017, Council passed the following motion:

"It was moved by Councillor Loveday, seconded by Councillor Isitt:

Rezoning Application No. 00525 for 1201 Fort Street and 1050 Pentrelew Place

1. That Council refer the application back to staff to work with the applicant to address the following:

- a. *Massing, height, architectural expression and setbacks of buildings with attention to the look and feel to Buildings A and B from the point of view of Pentrelew Place;*
- b. *Siting and design of the five-storey multi-unit residential building and the nearest townhouse building (buildings B and C) to improve the building-to-building relationship, to address liveability concerns and ensure a sensitive transition to the lower density area to the south of the subject site;*

- c. Removal of the roof decks on the townhouse units;
 - d. Alternate alignment and/or widening and refining the design of the public pathway connecting Pentrelew Place and Fort Street;
 - e. More breathing room, less wall-like feel, and more design diversity of the townhouses; and
 - f. Staff report back on the proposal's response to principles in development permit area 7b and the Rockland Neighbourhood Plan.
3. That Council direct staff to bring the application back to Committee of the Whole once these issues have been addressed.
 3. That Council direct staff to work with the applicant to include housing affordability into the project.

Development Permit with Variances Application No. 00035 for 1201 Fort Street and 1050 Pentrelew Place

1. That Council refer the application back to staff to work with the applicant to address the following:
 - a. Window placement and exterior design of the multi-unit residential buildings (Buildings A and B);
 - b. Exterior materials and colour; and
 - c. The items identified in the concurrent rezoning application where there is overlap with the Development Permit Application.
2. That Council direct staff to bring the application back to Committee of the Whole once these issues are addressed."

Revisions Resulting from Council Motion

Massing, height, architectural expression and setbacks of buildings with attention to the look and feel to Buildings A and B from the point of view of Pentrelew Place

The overall massing of Buildings A and B has shifted north, closer to Fort Street, with the revised proposal. As a result, the proposed height of Building B is now four-storeys instead of five. The two buildings are joined by a common amenity area on the ground floor which is proposed with a green roof. Building A is proposed at six-storeys; however, the massing has been reshaped in a north/south orientation, and the sixth storey stepped back, resulting in increased side yard setbacks, which provide more breathing room for the heritage designated buildings west of the site along Fort Street. The northward shift in building location would result in the loss of one additional Bylaw Protected tree; however, the relationship of the building to Fort Street is improved, which enhances the pedestrian experience along Fort Street and also provides opportunity for improved pathway alignment through the site.

Although the south setback to Building B has not changed, the reduced building height and redesigned south elevation have improved the transition to the property to the south. The entrance to Building B from Pentrelew Place is set well back from the street to minimize the building's impact on the street.

The overall architectural expression of Buildings A and B has improved significantly and is more compatible with the surrounding context. Without being imitative, the form and character of the

design draws on the traditional character of the Rockland neighbourhood with the use of brick as a predominant building material and the rhythm and form of the vertical elements of the proposed buildings. The curvature of the east elevation of Building A better addresses the park-like condition of the northeast portion of the site and the newly aligned public pathway through the site. In addition, the underground parking entrance has been relocated to the side of the building, allowing Building A to better engage with the street. All of these changes have enhanced the pedestrian experience along Fort Street, consistent with the objectives of DPA 7B(HC) – Corridors Heritage.

Siting and design of the five-storey multi-unit residential building and the nearest townhouse building (Buildings B and C) to improve the building-to-building relationship, to address liveability concerns and ensure a sensitive transition to the lower density area to the south of the subject site

The number of townhouse units have been reduced from twelve to ten with this revised proposal. Building C has been reduced from four townhouse units to three, which has alleviated the pinch-point condition between Buildings B and C. The reduced number of townhouses in addition to the changes to Building B noted above, have improved the transition to the lower density area to the south. This sensitive transition in scale from the higher density multi-unit residential form to the lower density single-family dwelling character to the south is consistent with the Rockland Neighbourhood Plan's policy that new multi-unit residential development along Fort Street should relate in scale to the residential properties to the south.

Removal of the roof decks on the townhouse units

The architectural expression of the townhouses has also changed significantly. The applicant still proposes roof decks for the townhouse units; however, the roof decks now present as more traditional third-storey terraces and are not visible from Pentrelew Place or upper Wilspercer Place. In addition, the elevator overrun and access stairs are now fully contained within the steeper pitch of the roof. There may be potential overlook issues between the terrace of Unit 10 (Building E) and the multi-unit residential building located at 1225 Fort Street. To mitigate the potential impact, the applicant proposes several trees along the shared property line (north) to help screen the adjacent property.

Alternate alignment and/or widening and refining the design of the public pathway connecting Pentrelew Place and Fort Street

The pathway alignment and design has been improved by shifting the Pentrelew Place entrance further south, between Buildings D and E. This new alignment provides better sight lines and public access to the site. It also more closely aligns with the existing desire line through the site and would provide pedestrians with a more park-like experience of the retained trees and enhanced landscaping.

The east elevation of Building A now fronts onto the public pathway providing opportunities for natural surveillance. In addition, the ground level units have individual patios and pathway connections to the public pathway that help to animate the public space.

Provision of the public pathway and semi-public green space is consistent with the OCP policy direction for the Rockland neighbourhood and the Rockland Neighbourhood Plan, which encourage the creation of the Pemberton Trail through this site and the retention of publicly accessible green space, respectively.

More breathing room, less wall-like feel, and more design diversity of the townhouses

As mentioned, the number of townhouses has been reduced from twelve to ten. The separation space between the three townhouse buildings has increased and the public pathway now runs between Buildings D and E. These changes increase the breathing room between buildings and reduce the wall-like feel of the townhouses. The height of the buildings has increased due to the change to a more traditional townhouse form.

The design of the townhouse buildings is cohesive in form, massing and use of materials. Subtle variations in the dormers, front elevations and corner unit elevations of units 4, 7 and 8 provide visual interest.

Proposal's response to principles in Development Permit Area 7B (HC): Corridors Heritage and the Rockland Neighbourhood Plan

Although the neighbourhood direction for Rockland supports the maintenance of existing dwellings and large lot character through sensitive infill that preserves green space and estate features, a number of multi-storey apartment buildings exist in the immediate vicinity that vary in design and contextual sensitivity. By comparison, 1201 Fort Street integrates a diversity of housing that incorporates a variety of sympathetic, high-quality earth tone materials that emphasize a strong horizontal form. The linear stone elements on the facades, as well as the projecting soffits and flat roof lines placed above a transparent floor line, emphasize the horizontal plane of Buildings A and B and help minimize vertical scale within the existing context. The orientation and curvilinear placement of Building A is also positioned to minimize the visual impact on Fort Street, and to retain as many of the existing trees as possible along this frontage. Building B is positioned to also lessen impact at the rear and west side of the property, and away from Pentrelew Place.

The smaller scale townhouse development along the west side of Pentrelew Place has adopted several features that recognize a number of character-defining elements within the area. References to Edwardian Vernacular Arts & Crafts speak to the traditional architectural vocabulary and scale that borrows from the surrounding context, as seen in such elements as:

- gabled roofs with roof finials
- box windows, bay windows with gabled pediments
- variety of hip, gable and shed-roof dormers
- fenestration scale and window style
- wide window casing
- brick veneer and detailing
- brick chimneys
- half-timbering and dentil mouldings.

Though the 1201 Fort Street application challenges Rockland's neighbourhood objectives and policies, it also attempts to reflect and respect the special character of the surrounding area by integrating a design that speaks to natural, warm, and high-quality materials; strong horizontal emphasis; and a variety of texture, colour and form. Furthermore, the application proposes to use the existing and new landscape to soften and screen the Fort Street edge, and enhance the pedestrian experience. Additionally, it utilizes new hard and soft landscaping features to respect the character of the area as seen through the inclusion of stone walls, stone seating, gateposts, Garry Oak woodland, and boulevard and ornamental shrubs.

Affordable Housing

As indicated in the applicant's letter dated September 25, 2017, the applicant proposes to construct ten non-market rental units on another site within the City of Victoria. If the units are not granted an occupancy permit by 2020, the applicant would provide \$25,000 per unit as a cash-in-lieu contribution to the City's Housing Reserve Fund. The affordable housing proposal would be secured through a Housing Agreement registered on title.

Accessibility Impact Statement

The British Columbia Building Code regulates accessibility as it pertains to buildings. The proposed public pathway connecting Fort Street and Pentrelew Place is designed to be accessible.

Data Table

The following data table compares the current proposal with the previous proposal, the existing zoning and the relevant OCP policies for Urban Residential (Area A) and Traditional Residential (Area B) urban place designations. An asterisk is used to identify where the proposal is less stringent than the standard R3-AM2 Zone.

Zoning Criteria	Current Proposal	Previous Proposal	Zone Standard R3-AM2 (Area A)	Zone Standard R1-B (Area B)	OCP Policy
Site area (m ²) - minimum	7850.00	7850.00	920.00	460.00 (standard lot) 600.00 (panhandle lot)	N/A
Lot width (m) - minimum	95.00	95.00	N/A	15.00 (standard lot) 18.00 (panhandle lot)	N/A
Number of units - maximum	94	93	N/A	16 (8 single-family dwellings and 8 secondary suites or garden suites)	N/A
Density (Floor Space Ratio) - maximum	1.39:1	1.39:1	1.6:1	N/A	2.0:1 (Area A) 1.00:1 (Area B) 1.29:1 (Blended OCP Maximum FSR)
Total floor area (m ²) - maximum	10898.00*	10833.00*	3573.30 (Area A) 2580.00 (Area B) 6153.30 (Combined)		4466.60 (Area A) 5639.80 (Area B) 10126.50 (Combined)

Zoning Criteria	Current Proposal	Previous Proposal	Zone Standard R3-AM2 (Area A)	Zone Standard R1-B (Area B)	OCP Policy	
Storeys - maximum	6* (Building A) 4 (Building B) 3 (Buildings C, D and E)	6* (Building A) 5* (Building B) 3 (Buildings C, D and E)	4	2 (standard lot) 1 (panhandle lot)	6 (Area A) 3 (Area B)	
Height (m) - maximum	21.42* (Building A) 15.11* (Building B) 10.86* (Building C) 11.42 (Building D) 11.34 (Building E)	21.40* (Building A) 18.00* (Building B) 10.23 (Building C) 10.74 (Building D) 10.73 (Building E)	12.00	7.60 (standard lot) 5.00 (panhandle lot)	N/A	
Roof decks	Yes (Townhouses: Buildings C, D and E)	Yes (Townhouses: Buildings C, D and E)	N/A	No	N/A	
Site coverage % - maximum	57.20*	47.8*	40%	40.00 (standard lot) 25.00 (panhandle lot)	N/A	
Landscaped Area % - minimum	42.60*	52.2	50%	N/A	N/A	
Setbacks (m) – minimum:						
Fort St.	6.00* (Building A)	6.00* (Building A)	10.50	N/A	N/A	
South	4.67* (Building B)	4.67* (Building B)	7.56	7.50 (standard lot) 4.00 (panhandle lot)	N/A	
West	4.00* (Building A) 0.60* (Building B)	2.3* (Building A) 0.00* (Building B)	10.71 (Building A) 7.56 (Building B)	7.50 (standard lot) 4.00 (panhandle lot)	N/A	N/A
Pentrelew Pl.	1.91* (to stairs) 2.00* (to buildings)	1.86* (to stairs) 2.20* (to building)	5.12 (Building C) 5.37 (Building D) 5.37 (Building E)	1.50 (standard lot) 4.00 (panhandle lot)	N/A	N/A
Parking (minimum)	121*	123*	132	N/A	N/A	N/A
Visitor parking (minimum)	9*	9*	12 (10% of total parking)	N/A	N/A	N/A
Bicycle parking stalls (minimum)				N/A	N/A	

Zoning Criteria	Current Proposal	Previous Proposal	Zone Standard R3-AM2 (Area A)	Zone Standard R1-B (Area B)	OCP Policy	
Class 1	96 (multi-unit residential)	81 (multi-unit residential)	84 (multi-unit residential)			
	10 (townhouses)	12 (townhouses)	10 (townhouses)			
Class 2	2 – 6 space racks	2 – 6 space racks	2 – 6 space racks			

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, because the height of the townhouses was increased, the applicant has consulted the Rockland Neighbourhood Association CALUC at a second Community Meeting held on September 12, 2017. A summary of the meeting is attached to this report.

Zoning Regulation Bylaw

In accordance with Rezoning Application No. 00525, staff recommend that Council consider a site-specific zone to accommodate the proposed development. Given the scale of this development, the sites proximity to several heritage designated buildings, and the sensitivity of the mature trees staff are recommending that Council consider more stringent height, setback and site coverage requirements in the new zone. It is also recommended that the height and several siting criteria be addressed through the variance process to ensure that if any future proposals come forward, that they benefit from a Council review process rather than being entitled to more generous siting allowances already expressed in the zone.

A review of the parking demand based on proposed Schedule C rates indicates a potential parking demand of 130 stalls; however, this demand has not factored a discount for the proximity to the Frequent Transit Network along Fort Street. As 121 stalls are proposed, the anticipated parking shortfall is nine stalls. This shortfall may impact parking availability on the street and impact surrounding properties.

Tree Preservation and Urban Forest Management

A total of 51 trees were inventoried in association with this proposal, 23 of which are bylaw protected trees. Seven of the inventoried trees are located on properties immediately adjacent to the subject property, of which two are bylaw protected. Ten of the Bylaw protected trees on the site are proposed for removal as they are located within, or near, the proposed building envelopes and driveways to the parkade structure. Four of the bylaw protected trees proposed for removal measure over 100 centimeters, the largest being 152 centimeters in diameter at breast height (DBH). In total, 29 of the trees on site are proposed for removal and 22 trees would be retained. None of the trees on neighbouring properties are proposed for removal.

In addition to the 22 retained trees, 20 replacement Garry Oak trees would be planted to compensate for the removal of the 10 bylaw protected trees (2:1 replacement ratio). Six of the replacement Garry Oaks are proposed to be planted on City property on the Fort Street and Pentrelew Place frontages. An additional, 86 new trees will be planted on the property, for a total of 106 new trees on or adjacent the site. However, the majority of the new trees proposed are small tree species, as many of them are planted in the landscape areas over the parkade roof, which cannot accommodate soil volumes to sustain larger tree species. Furthermore, there is very little room on this site to grow new large canopy trees. As such, it is unlikely that the existing tree canopy will be replaced with this proposal.

Staff have some concerns about the trees indicated as being retained on the landscape plans. The retained bylaw trees' health conditions range from Poor (1), Fair (7), Fair/Good (2) to Good (4). Several of these trees are within close proximity to new driveways, building foundations and public walkways. An arborist report has been provided that outlines the tree protection measures and construction impact mitigation measures proposed to retain the trees; although, it is expected that the health of many of the mature trees that are in close proximity to the proposed construction activities will be negatively affected over time.

Staff recommend for Council's consideration that, prior to a Public Hearing, further analysis be done by the consulting arborist through exploratory digging within the root zones of some of the trees noted as retained to gain more information about these trees. Appropriate wording has been included in the recommendation provided for Council's consideration.

CONCLUSIONS

Given the significant revisions undertaken by the applicant to address the Council motion from April 13, 2017, and staff feedback, it is recommended for Council's consideration that the Applications move forward to a Public Hearing.

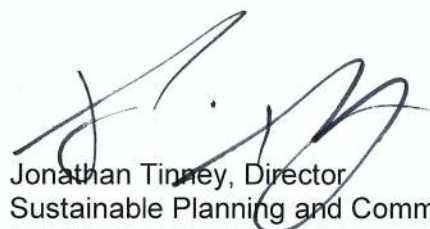
ALTERNATE MOTION

That Council decline Rezoning Application No. 00525 and Development Permit with Variances Application No. 00035 for the property located at 1201 Fort Street and 1050 Pentrelew Place.

Respectfully submitted,



Alec Johnston, Senior Planner
Development Services Division



Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date:

Oct. 17, 2017

List of Attachments:

- Attachment A - Subject Map
- Attachment B - Aerial Map
- Attachment C - Plans date stamped September 8, 2017
- Attachment D - Letter from applicant to Mayor and Council dated September 27, 2017
- Attachment E – Affordable Housing Proposal dated September 25, 2017
- Attachment F - Community Association Land Use Committee Meeting Summary
- Attachment G – Arborist Report dated October 10, 2017
- Attachment H - Committee of the Whole reports for Rezoning Application No. 00525 and Development Permit with Variances Application No. 00035 dated March 23, 2017
- Attachment I - Correspondence