



Committee of the Whole Report

For the Meeting of June 15, 2017

To: Committee of the Whole **Date:** May 25, 2017

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

Subject: Development Permit with Variances Application No. 00021 for 515 Foul Bay Road

RECOMMENDATION

That Council after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

"That Council authorize the issuance of Development Permit Application No. 00021 for 515 Foul Bay Road for the subdivision of the panhandle lot and subsequent construction of three single-family dwellings, subject to the Heritage Designation of the existing house and registration of a Section 219 Covenant for tree protection, in accordance with:

1. Plans date stamped March 10, 2017.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. Lot A:
 - a. increase the maximum height from 5.00m to 7.80m
 - b. increase the maximum number of storeys from one to two
 - c. reduce the front setback from 7.50m to 1.22m (west)
 - d. reduce the side setbacks from 7.50m to 4.00m (north) and 3.74m (south)
 - ii. Lot B:
 - a. increase the maximum height from 5.00m to 7.70m
 - b. increase the maximum number of storeys from one to two
 - c. reduce the front setback from 7.50m to 6.81m (south)
 - d. reduce the side setbacks from 7.50m to 3.00m (east) and 2.68 (west)
 - iii. Lot C:
 - a. increase the maximum height from 5.00m to 7.90m
 - b. increase the maximum number of storeys from one to two
 - c. reduce the front setback, from 7.50m to 0.69m (north)
 - d. reduce the side setbacks from 7.50m to 4.00m (east) and 1.85m (west)

- iv. Lot D (Existing House):
 - a. reduce the front setback from 7.50m to 1.58 (west)
 - b. reduce the rear setback from 7.50m to 2.00m (east)
 - c. reduce the side setback from 7.50m to 0.00m (north).
3. Retention of an International Society of Arboriculture certified arborist during construction to ensure the tree protection plan is followed.
4. Registration of a Housing Agreement to secure rental of the five unit house conversion for a ten year period.
5. The Development Permit lapsing two years from the date of this resolution.”

LEGISLATIVE AUTHORITY

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 establishment of objectives for the form and character of intensive residential development, a Development Permit may include requirements respecting the character of the development including landscaping, and the siting, form, exterior design and finish of buildings and other structures.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Permit with Variances Application for the property located at 515 Foul Bay Road. The proposal is to subdivide the existing panhandle lot into four lots and construct three new single-family dwellings while retaining the existing five-unit house conversion on one lot. The variances are related to increased height of the new single-family dwellings, as well as reduced setbacks to property lines for all four dwellings.

The following points were considered in assessing this application:

- the proposal is consistent with the Design Guidelines for Development Permit Area 15B: Intensive Residential – Panhandle Lot contained in the *Official Community Plan (OCP)*, 2012, which encourages new panhandle lot development that is compatible with the immediate neighbours, surrounding neighbourhood character and streetscape. In addition, achieving a high-quality of architecture, landscape and urban design to mitigate negative impact of panhandle lots
- the proposal is consistent with the *Gonzales Neighbourhood Community Plan, 2002*, which encourages heritage designation of houses with heritage value and the protection of trees and natural features through the registration of covenants; however, the proposal is inconsistent with the recommendation against panhandle lot subdivision in the Queen Anne Heights/Foul Bay/Gonzales Hill portion of the neighbourhood
- the proposed landscape plan includes the retention of clusters of trees through careful siting of the new buildings and the extensive use of permeable pavers in critical root zone areas. Twenty-four bylaw replacement trees would also be planted to mitigate the loss of twelve mature trees and provide additional privacy screening and enhance the existing Garry Oak ecology of the site
- the requested setback variances are supportable as sufficient distance and privacy is maintained from the adjacent neighbours and from the existing house

- the requested height and number of storey variances are supportable as it minimizes the blasting requirements and sufficient distance from adjacent neighbours is provided to mitigate potential privacy and shading issues
- the applicant is offering a ten year housing agreement to maintain rental of the existing five units.

BACKGROUND

Description of Proposal

The proposal is to subdivide the existing panhandle lot (4896m²) into four strata lots and construct three new single-family dwellings while retaining the existing house as a five suite house conversion on one lot. An application to designate the existing house as a heritage building is being made concurrent with this Development Permit with Variance Application. The proposed single-family dwellings incorporate single-car garages and five surface parking stalls are provided for the existing five unit house conversion. The new single-family dwellings are situated to retain the majority of Gary Oak trees, trees of other species and rock outcroppings on the site. A number of variances are requested for building setbacks and building height.

Specific details include:

- contemporary architectural design of the new buildings with materials and colour that are complimentary to the character of the existing building
- high-quality exterior finishes including fibre cement panel siding and fascia, cedar siding and soffits, and stone cladding
- removal of some trees to permit new buildings and driveways
- permeable pavers in critical root zones, as well as, surface parking areas and private patios
- larger windows and upper storey balconies are oriented towards the interior of the site to limit overlook and maintain privacy for adjacent neighbours

The proposed variances are related to:

- Lot A:
 - increase the maximum height from 5.00m to 7.80m
 - increase the maximum number of storeys from one to two
 - reduce the front setback from 7.50m to 1.22m (west)
 - reduce the side setbacks from 7.50m to 4.00m (north) and 3.74m (south).
- Lot B:
 - increase the maximum height from 5.00m to 7.70m
 - increase the maximum number of storeys from one to two
 - reduce the front setback from 7.50m to 6.81m (south)
 - reduce the side setbacks from 7.50m to 3.00m (east) and 2.68 (west).
- Lot C:
 - increase the maximum height from 5.00m to 7.90m
 - increase the maximum number of storeys from one to two
 - reduce the front setback, from 7.50m to 0.69m (north)
 - reduce the side setbacks from 7.50m to 4.00m (east) and 1.85m (west).

- Lot D (Existing House):
 - i. reduce the front setback from 7.50m to 1.58 (west)
 - ii. reduce the rear setback from 7.50m to 2.00m (east)
 - iii. reduce the side setback from 7.50m to 0.00m (north).

Due to the number of mature trees on or near the property, the Applicant provided an Arborist Report (attached) and a Tree Management Plan (AB1.0 – AB1.2 in attached Plans) to support the proposed scheme. Impacts on the mature landscape character are discussed under the Analysis section of this report.

Sustainability Features

As indicated in the Applicant's letter dated April 26, 2017 the following sustainability features are associated with this application:

- the siting, footprint and construction of the buildings respect the site's topography and allows for retention of many of the mature trees on or near the site
- the twenty-four replacement Garry Oak trees provide an opportunity for successional planting throughout the site
- to minimize energy use, the new single-family dwellings are designed to maximize southern exposure for passive solar heat gains, while larger overhangs and mature trees provide shading in the summer
- the building envelopes and glazing will have higher performing thermal values
- extensive use of permeable pavers allows for rainwater penetration to replenish ground water and reduces the amount of storm water run-off from the site
- use of native drought-tolerant species for site landscaping does not require ongoing landscape irrigation.

Active Transportation Impacts

The Application proposes five Class 1 secure bicycle parking spots and a six-space Class 2 bicycle parking rack for the existing house conversion (Lot D).

Public Realm Improvements

No public realm improvements are proposed in association with this Development Permit Application.

Existing Site Development and Development Potential

The existing building was built in 1910 as a single-family dwelling. Details of the building's history can be found in the concurrent Heritage Designation Application. In 1959, the building was converted to five self-contained dwelling units. Under the house conversion regulations, the building could undergo a conversion to one of the following uses:

- nine self-contained dwelling units
- approximately 20 to 30 housekeeping units with a minimum unit size of 25.5m²
- a boarding house or rooming house for more than four but not more than 15 persons (other than members of the family of the occupier)
- a rest home – class "B", which provides lodging and care to more than two but not more than 20 persons (other than members of the operator's family)
- a kindergarten.

Data Table

The following data table compares the proposal with the existing R1-G Zone and the panhandle regulations under Schedule H of the Zoning Bylaw. An asterisk is used to identify where the proposal is less stringent than the existing zone. A double asterisk is used to identify legal non-conformities.

Zoning Criteria	Proposal				Zone Standard R1-G Panhandle
	Lot A	Lot B	Lot C	Lot D	
Site area (m ²) - minimum	674.00	660.90	920.40	1464.70	600.00
Lot width (m) - minimum	24.10	21.10	35.80	48.80	18.00
Combined floor area (m ²) - maximum	255.70	245.30	280.00	908.60**	280.00
Height (m) - maximum	7.80*	7.70*	7.90*	9.90**	5.00
Storeys - maximum	2*	2*	2*	3**	1
Site coverage % - maximum	24.63	23.71	21.65	24.00	25.00
Setbacks (m) – minimum:					
Front	1.22 (west)*	6.81 (south)*	0.69 (north)*	1.58 (west)*	4.00/7.50
Rear	8.53 (east)	7.50 (north)	11.20 (south)	2.00 (east)*	4.00/7.50
Side	4.00 (north)*	3.00 (east)*	4.00 (east)*	0.00 (north)*	4.00/7.50
Side	3.74 (south)*	2.68 (west)*	1.85 (west)*	8.26 (south)	4.00/7.50
					(4.00m for walls with non- habitable windows and 7.50m for walls with habitable windows)
Parking - minimum	1	1	1	5	1 per single family dwelling 0.8 per dwelling unit in a house conversion
Bicycle parking stalls (minimum)	N/A	N/A	N/A	5 (Class 1) 6-space rack (Class 2)	N/A

Note: Site area excludes the common property access lane (1,176.00m²)

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, on November 25, 2016 the application was referred for a 30-day comment period to the Fairfield Gonzales CALUC. The CALUC has asked Council to consider requiring a formal community meeting for this application. Correspondence from the CALUC dated April 10, 2017 and December 9, 2016 is attached to this report.

ANALYSIS

Development Permit Area and Design Guidelines

The *Official Community Plan (OCP)* identifies this property within Development Permit Area 15B: Intensive Residential – Panhandle Lot. The objectives that justify this designation include:

- to preserve Traditional Residential character by ensuring that integration of panhandle lots and associated development are compatible with immediate neighbours, surrounding neighbourhood character and streetscapes.
- To achieve a high-quality of architecture, landscape and urban design to mitigate negative impacts of panhandle lots.

The proposed design for the new single-family dwellings is considered in relation to the *Advisory Design Guidelines for Buildings, Signs and Awnings, (1981)* and *Design Guidelines for Small Lot House (2002)*. Staff assessment of the proposed design in relation to the Guidelines is summarized below:

- siting of the single-family dwellings would have no impact on the views of the existing house from Foul Bay Road
- the form and massing of the single-family dwellings are small in scale compared to the existing house and their contemporary designs are complementary in composition, mix and high-quality of the proposed materials
- the variances for height and number of storeys are recommended to be supportable because the trade-off of not constructing a basement reduces the need for blasting and allows for foundation construction techniques that minimize the impact on the trees
- the variances on setbacks are supportable because the buildings are sited to retain the majority of the trees on site and provide sufficient breathing room for the existing house
- the existing and proposed landscaping and fences, as well as, the window placement, location of entries and setback distances for the proposed single-family dwellings will minimize overlook and privacy impacts on adjacent properties
- while a number of mature trees would be removed to construct the new buildings and driveways, the proposed Landscape Plan includes the retention of clusters of trees, the removal of invasive species and the use of permeable driveway materials in critical root zone areas.

Local Area Plans

One of the recommendations of the *Gonzales Neighbourhood Community Plan, 2002* is to “adopt a policy of excluding panhandle lot subdivisions...from the Queen Anne Heights/Foul Bay/Gonzales Hill area of the neighbourhood to preserve the large lot character of Queen Anne Heights” (emphasis added). The proposed subdivision of the existing panhandle lot into four bare land strata lots is inconsistent with this recommendation; however, the proposal is supportable given the new houses are not visible from Foul Bay Road and the street relationship of the existing house is maintained. In addition, the proposal includes Heritage Designation of the existing house, a housing agreement to secure rental of the five suites within

the existing house for a ten year period, registration of a tree covenant to protect many of the retained Garry Oaks and other significant trees, and new plantings that add to the green space character and Garry Oak ecology of the site. These elements of the proposal are consistent with policies of the *Gonzales Neighbourhood Community Plan, 2002*.

Heritage

The existing house is on the Heritage Registry and the proposal includes an application for Heritage Designation of the building's exterior. The half-timbered detailing, and stone-clad exterior materials of the existing house, as well as the colour palette are reflected in the material and colour selections for the new single-family dwellings. The contemporary architectural expression is supportable given the buildings are kept lower in massing and proportion and are setback from the existing house to provide sufficient breathing room.

There are several heritage registered or designated properties in the immediate area of the subject site, which include:

- Heritage Designated properties at 550 Foul Bay Road (Elora Nursing Home), 611 Foul Bay Road and 1964 Fairfield Road (Abkhazi Gardens)
- Margaret Jenkins Elementary School is on the heritage registry but not designated heritage.

Tree Preservation Bylaw and Urban Forest Master Plan

There are many mature trees on the subject site and surrounding properties. These trees contribute to the City's urban tree canopy and the large-estate lot character of the Queen Anne Heights/Foul Bay/Gonzales Hill area. As stated in the Applicant's letter, one of the principle design objectives is to preserve the mature trees and the character they lend to the site. To this end, the buildings are situated on site to retain the majority of the trees, many of which are Bylaw protected. In addition, the proposed site coverage is below the maximum allowed in the panhandle regulations and the buildings are proposed at two-storey rather than one-storey with a basement to reduce the need for blasting. Furthermore, the applicant is offering a Section 219 Covenant over portions of the site to provide additional protection for many of the retained trees.

A project arborist has assessed 50 of the privately owned trees and determined that 19 trees would be removed. Of the 19 trees, 12 are bylaw protected and 11 are Garry Oaks. Twenty-eight new trees, including 24 bylaw replacement trees, are part of the proposed landscape plan and would be situated to provide successional planting to support the Garry Oak ecosystem, as well as, visual screening of the new single-family dwellings. As the site is rocky with sloping topography, achieving planting sites for the replacement trees may be challenging. Fourteen trees on adjacent private properties, of which four are bylaw protected, were also noted as potentially being impacted by construction of the proposed single-family homes.

The home construction and blasting, as well as installation of utility services of the proposed dwellings and access driveway, may impact the retained trees. An arborist report has been provided that outlines the tree protection measures and construction impact mitigation measures proposed to retain the trees; however, it is anticipated that the health of these mature trees may be negatively affected over time. The mitigation measures include driveway design, construction method and specifying driveway surface material (permeable materials). These will be secured through a landscape security. The Parks Department will require that an ISA Certified arborist be onsite prior to and during blasting and excavation work within the critical tree root zones, and exploratory work done by hand prior to construction.

There are no impacts to public trees with this application.

CONCLUSIONS

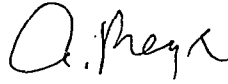
The proposed site plan, architectural and landscape design are well-considered with respect to form, massing and character, and minimize the potential impact of new development on the mature landscape character. Staff recommend that Council consider supporting this application.

ALTERNATE MOTION

That Council decline Development Permit with Variances Application No. 00021 for the property located at 515 Foul Bay Road.

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:

June 6, 2017

List of Attachments:

- Subject Map
- Aerial Map
- Plans date stamped March 10, 2017
- Letters from applicant to Mayor and Council dated April 26, 2016
- Community Association Land Use Committee Comments dated April 10, 2017 and December 9, 2016
- Arborist Letter dated December 11, 2016
- Correspondence