

Lucas De Amaral

From: Virginia Errick [REDACTED]
Sent: Thursday, June 08, 2017 1:43 PM
To: Victoria Mayor and Council; Councillors
Cc: planandzone@fairfieldcommunity.ca; Alec Johnston
Subject: 515 Foul Bay Rd development

Dear Mayor and Council Members,

re: the proposed development of 515 Foul Bay Rd.

Right now, The City is holding meetings and asking for feedback on a Heritage Conservation Area in Gonzales which includes 515 Foul Bay Rd.

The Development Proposal for this property, as it stands now, is in direct contradiction to both the current and proposed Gonzales Plans.

Senior Heritage Planner, Merinda Conley has said the Heritage Conservation Area protects from inappropriate development.

The HCA is to preserve the look and feel of properties, saving the tree canopy and having new house design that is compatible with the heritage character, in this case the Maclure mansion.

The fact that the developer is tying the heritage designation to the **approval of the** development doesn't justify the 17 variances.

Please look at this proposal carefully and reject it, as it is.

Otherwise, why are we paying planners **and engaging citizens to work on neighbourhood conservation plans?**

Virginia Errick
615 Foul Bay Rd.

Lucas De Amaral

From: SUSANNE RAUTIO [REDACTED]
Sent: Friday, June 09, 2017 12:02 PM
To: Councillors; Victoria Mayor and Council
Subject: 515 Foul Bay Road

Dear Mayor and Councillors

I am fundamentally opposed to the proposed development at 515 Foul Bay Road for the following reasons:

1. in the current Gonzales Neighbourhood Plan City Council adopted a policy of excluding panhandle lot subdivisions in Queen Anne Heights - Council should follow the policy they adopted;
2. loss of mature Garry Oak woodland, with removal of at least 26 trees, 13 of which are mature Garry Oaks; other trees/shrubs and dense vegetation will also be removed;
3. development requires blasting for at least 2 of 3 proposed houses, which will destroy rock outcrops and natural features of Garry Oak woodland, and will put in jeopardy the future of other trees on 515 property, as well as many mature trees immediately adjacent on neighbouring properties; and
4. the house on the lot had 5 rental units supplying much needed low cost housing. The developer kicked out the renters and now wants to build monster houses that will not supply reasonably priced housing.

The developer knew when they bought the lot that a panhandle lot did not allow for development and yet they are going ahead with something that is contrary to what the community agreed to. They should not be rewarded by having their proposed development approved.

Council must take a stand for something. If you are for low cost housing then do not approve this plan. If you are for heritage values and biologically important areas then do not approve the plan, If however you approve it you will reinforce in people's minds that you are working on behalf of downtown developers and not the people who live here.

I do not live adjacent to this development but believe it to be too unique and precious to build monster houses that will benefit a few people. **I would propose instead that you allow for the house to be subdivided from the land and use CRD parks planning money to buy the land and extend Abkhazi Gardens. In this way many people will get to enjoy this area; not just the few that can afford it.**

regards
Susanne Rautio
359 Richmond Ave

Alicia Ferguson

Subject: RE: 515 Foul Bay Rd.

From: Michelle Bonner

Date: June 11, 2017 at 12:08:33 PM PDT

To: "councillors@victoria.ca" <councillors@victoria.ca>

Subject: 515 Foul Bay Rd.

Dear Mayor and City Council,

I am writing to register my opposition to the panhandle lot subdivision proposed for 515 Foul Bay Road. My neighbour, Karen Ayers (613 Foul Bay Rd.), sent an email last week, which I support and details many of the concerns held by my neighbours and I. I encourage you to reread it and I would like to add a few additional points.

First, when we met with the developers in the fall they gave Chadwick Place as an example of what they plan to do at 515 Foul Bay Rd. I encourage council members to visit Chadwick Place prior to the meeting on Thursday. Almost all the trees and green space were removed to put in luxury houses and a road. The contrast with Abkhazi Gardens next doors allows any passer-by to see the difference between what was and what is. If official community plans are to be meaningful, then careful thought is needed before permitting the creation of another Chadwick Place. Careful attention is needed to the details, which Karen nicely outlined for you in her email.

Second, the new development at 515 Foul Bay Rd. would require the creation of a road where there is currently a driveway. From what I understand, this involves widening the road and putting in a sidewalk (this is put into the plans). However, in order to achieve this and respect the boundaries of my property and those of my neighbours, then the developer would need to blast through a significant rock that is a defining feature of the current property and, as my neighbour noted in regards to the blasting needed to build the houses, will destroy rock outcrops and natural features, and impact not only the 515 trees, but also those immediately over the property line on adjacent properties.

To reiterate Karen's concerns, we have bylaws, regulations and neighbourhood plans in Victoria to protect the integrity of neighbourhoods, the natural environment and quality of life of the residents. Residents need to be confident that the City's policies and rules are respected, and that site specific applications which do not substantially comply will not be permitted. As such, I urge you to reject this application, as it does not conform to the OCP, the Gonzales Neighbourhood Plan (current or proposed), or the Panhandle Lot regulations.

If Council decides to consider development of this site, I would request that the applicant be directed to put in a fence to protect neighbouring properties from the new road, be given explicit instruction to protect trees bordering neighbours properties and the root systems of neighbours' trees, and reduce the size of the houses and otherwise scale back the proposal to address neighbourhood concerns, and to more substantially comply with the City's regulations intended to protect the privacy, green space and integrity of our neighbourhoods.

Thank you for your time and consideration.

Michelle Bonner

527 Foul Bay Road

Proposed Strata Road for 515 Foul Bay Road Development creates safety and trespass issues for residents at 511 Foul Bay Road. Amendment to the approval motion sought.

June 11 2017

To: Mayor of City of Victoria Lisa Helps mayor@victoria.ca
City Councilors City of Victoria

1. Marianne Alto malto@victoria.ca
2. Chris Coleman ccoleman@victoria.ca
3. Ben Isititt bisitt@victoria.ca
4. Jeremy Loveday jloveday@victoria.ca
5. Margret Lucas mlucas@victoria.ca
6. Pam Madoff pmadoff@victoria.ca
7. Charlene Thornton-Joe joe@victoria.ca
8. Geoff Young gyoung@victoria.ca

Re: A request to Mayor and Council to amend the motion to authorize the development permit for 515 Foul Bay Road to include a condition for safe and legal use of the strata road by the owners of 511 Foul Bay Road.

On June 16th you will be making a decision on issuance of the development permit for 515 Foul Bay Road. The Strata Road in this development uses an easement afforded to 515 Foul Bay Road through our property 511 Foul Bay Road. The proposed wider strata road remains mostly on our property as allowed by the existing easement on our property. The current road is 3 meters wide (single lane) and the strata road will be 7 meters wide (two lanes) as required by today's standards for ambulance, fire and improved access for increased traffic. The problem is that once the strata road is built when we exit and entry our carport to access Foul Bay Road we have to trespass on this new two lane strata road and onto 515 land to get to Foul Bay Road. We currently have no provisions to legally access Foul Bay using any portion of the 515 property so we would be in trespass. We classify this as a safety issue because if we are to remain legally on our property and are without an easement on 515 Foul Bay land for access then we will have to drive a fair distance on the left side of the strata road into the in-coming traffic lane. This is unsafe for us and future owners of 515 Foul Bay Road. We made known our concerns in September 2016 at the initial neighbors meeting and to Fred Rohani of Alpha developments during an on-site meeting in the fall of 2016. The access and safety concerns were acknowledged as a real problem by Alpha Developments. Since the fall of 2016 we have from Alpha developments a non-binding commitment (a promise) to register an easement for 511 Foul Bay Road for use of Strata Road so that we can get from our carport to the street safely and legally. Alpha's expectation is that we pay for legal fees within a reasonable set cost limits for drafting an easement. To this we agreed that we bear the costs was accepted by Alpha Developments. In the intervening months we have nothing binding on Alpha Developments to move through the legal requirements and get an easement. We earnestly sought resolution with Alpha Developments prior to this coming to Council for issuance of the development permit but now have to lean on all of you to make this happen.

Our fear is that should Council approve the motion (restated in Figure 1 below) and approve issuance of permit without specific direction to Alpha in this issuance that they must negotiate a mutually agreeable access solution with 511 on the Strata Road. Without this direction there is

nothing to compel future cooperation from Alpha with us to do so. After months of seeking a solution working directly with Alpha Development we write this letter to council on advice from our lawyer. We ask the City Councilors and Mayor for support to our proposed amendment and only once this included issue the permit. Our proposed wording amendment is shown in Figure 1 in bold. We think your support is needed so that both parties are compelled to reach a mutually agreeable solution and this is within the context of the development permit issuance.

We know it is in the best interests of future owners of 515 and 511 to ensure safe and legal access. Based on the lack of progress since September we do not believe the Alpha Developments would negotiate such conditions with us at 511 unless there is direction from the City Council to do so as a condition of approval.

This development seriously threatens the residents of 511 Foul Bay (Mike Fenger and Valerie Hignett).

Figure 1. Wording of the recommendation to approve Development Permit with Variances is shown below in italics. This motion as proposed does not recognize the safety and trespass issues the strata road poses to future owners at 515 Foul Bay Road as well as the owners of 511 Foul Bay Road.

“Agenda Item 10 Development Permit with Variances Application No. 00021 for 515 Foul Bay Road (Fairfield/Gonzales)--J. Tinney, Director of Sustainable Planning & Community Development

A report providing information and recommendations regarding an application 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.

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 provisions for **legal and safe access for 511 Foul Bay Road for use of the Strata Road from their property to Foul Bay Road prior to Strata Road Construction** and 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: 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.”*

The motion recommends Council *allows an opportunity for public comment* post approval. We do not see ourselves as appropriately dealt at some future date in a wider public forum as we are the only property that shares the strata road proposed and we are potentially seriously directly negatively impacted by this development without City intervention. In other words we want council to provide direction to the developer as part of the approval wording in the motion not after issuance of the permit but as direction to resolve the issue this development raises for us and a binds the developer to do that.

Thank you for your time and consideration. We hope for your support to amend the motion and that you understand and support our need to have you as the elected representative of the City provide direction to Alpha developments on safety and access. With your support we look forward to working productively with Alpha developments so they can complete their plans and that our interest are safeguarded in the process.

In Summary.

1. We do not oppose densification in Gonzales area and more resident/owners at 515 Foul Bay Road. We know this development means increased traffic in what is identified in the development plans as the *Common Property Strata Access Road* (see Figures 2 and 3).
2. We have been in negotiations with Fred Rohani of Alpha Developments since September 2016 but there has been no substantive progress.
3. We are informed by our lawyer we have nothing to compel future negotiations without City of Victoria and City direction to Alpha Developments on our access to do so.
4. We have agreed to pay a substantial portion of the legal costs of an easement and hoped to get this resolved before seeing the recommendations to grant the development permit come to Council for a decision. Alpha Developments agree to arrange for the legal work but did not follow through..
5. We support the use of our property and the use of the easement on our property for this new development. An alternative would be to entirely relocate the strata road to within the panhandle portion of 515 lot (see Figures 2 and 3) and create a new entrance for the development on Foul Bay Road. We believe that a single wider shared entry for 511 and 515 across from Chandler improves visibility for drivers reduces congestion within the school zone and better safety for the bike lane and is a superior safer approach over calling for 515 to create their new access entirely within the panhandle of 515.
6. We need Council and Major support for our proposed wording changes to the motion for issuance of the permit as without this we will be a permanently impacted and our property and access rendered unsafe and unsure.
7. We have lost confidence in Alpha Developments and their non-binding promises to follow through on verbal commitments only after they get the issuance of their permit. The lack of confidence is also founded because Alpha's drawing did not show the actual location of our carports on their plans and this has been seriously misleading. This lack of confidence is also based on lack of follow-up experienced to date and misrepresentation of the current access situation and our buildings.
8. We believe that there will be no follow-up unless direction is provided by the Major and Council to Alpha to resolve this to mutual benefit and agreement of both parties as a permit condition.

9. Figures 2, 3 and 4 below show legal boundaries current easement the strata road and aerial views of the property and the strata road.

Thank you please call us if we can be of any further assistance.

Mike Fenger and Valerie Hignett.

Owners of 511 Foul Bay Road.

[REDACTED]

[REDACTED]

Figure 2. Common Property Access Road and location of 511 Property without carports shown.



Figure 3. Amended plans showing one carport. Figure 3 (aerial view and Figure 4) show the additional carport that has been present since 1960 but not shown as part of the stamped drawings.

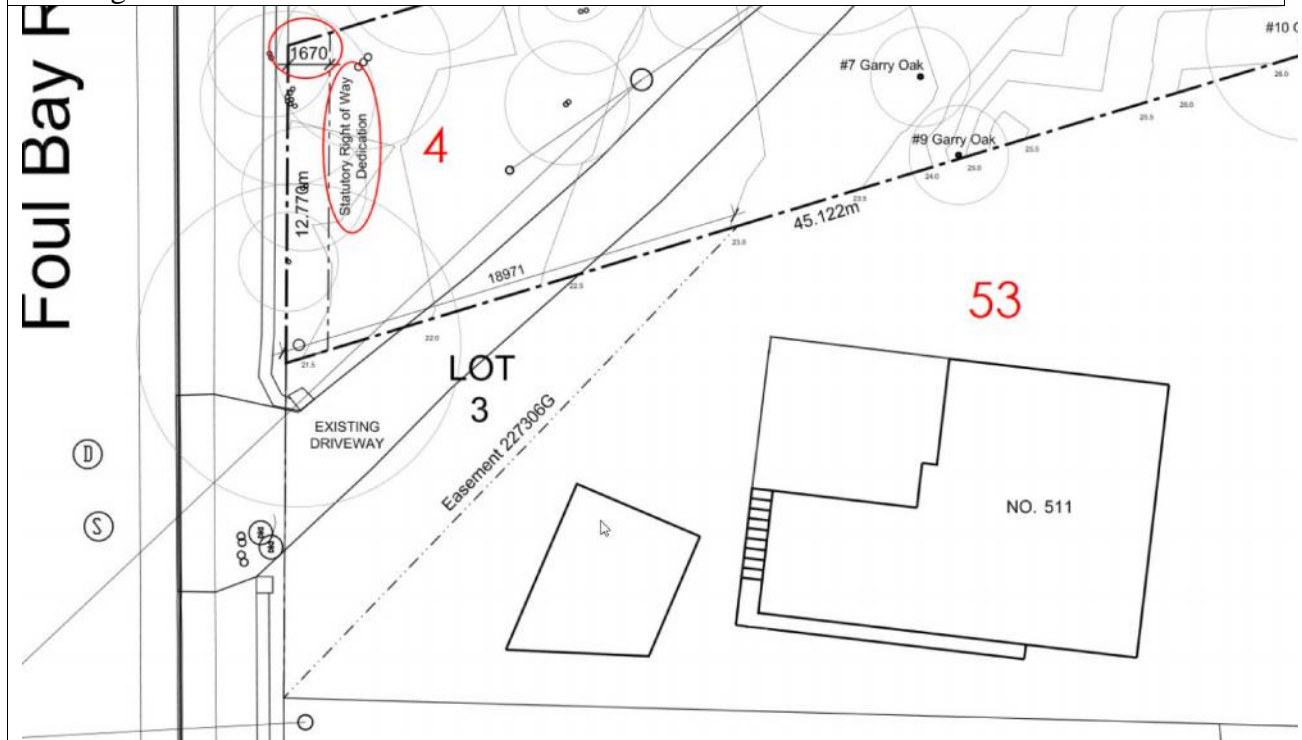


Figure 4. Aerial view foot print of 511 Foul Bay Road and existing access.

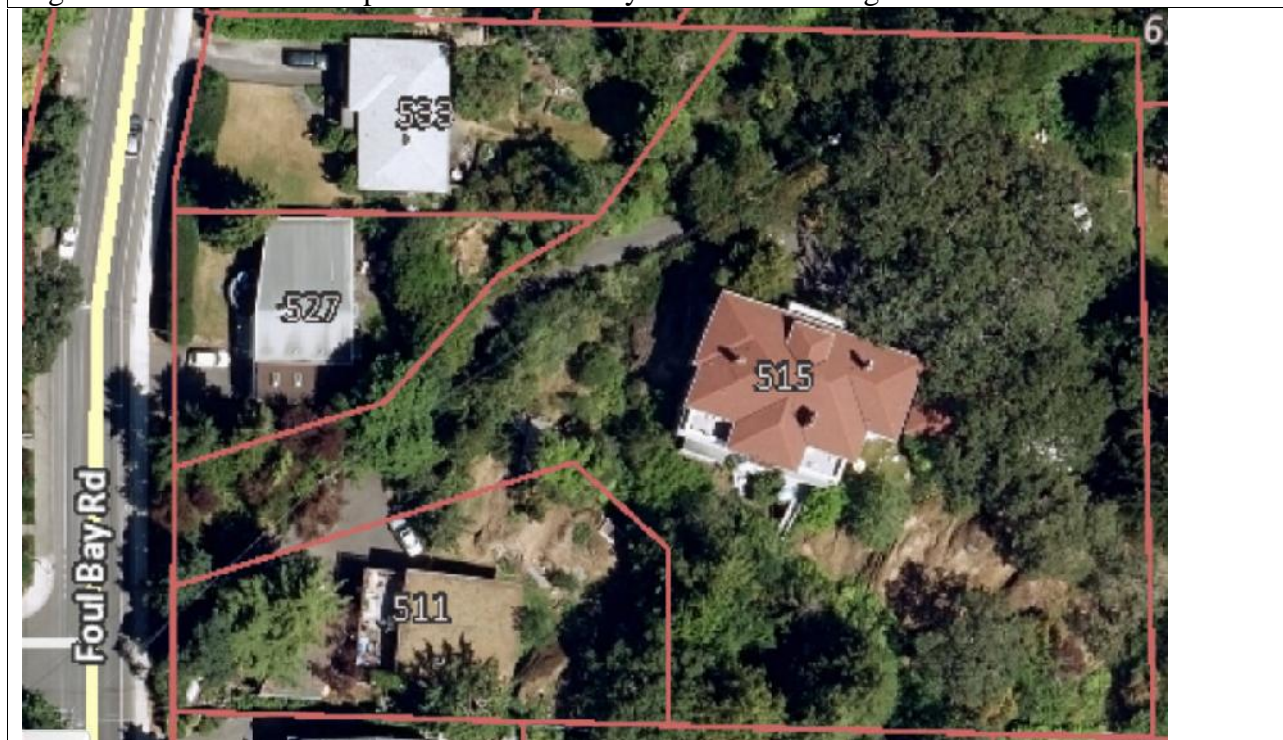


Figure 5. 1960 Map showing location of Easement 2273066 and location of carports.
Some of the wording of the easement

-) “to keep and repair and maintain such sewers, drains, and pipes, making good all damage done there by restoring the surface to its original state as soon as possible” and
-) “the right of carrying electric or telephone lines over and across the aforementioned portion of Lot Three”
-) “together with a right of way”

