



Planning and Land Use Committee Report

For the Meeting of December 10, 2015

To: Planning and Land Use Committee **Date:** November 26, 2015

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

Subject: Development Variance Permit No. 00163 for 1066 and 1070 Finlayson Street

RECOMMENDATION

Staff recommend that Committee forward this report to Council and that after giving notice and allowing an opportunity for public comment at a meeting of Council, that Council consider the following motion:

"That Council authorize the issuance of Development Variance Permit Application No. 00163 for 1066 and 1070 Finlayson Street, in accordance with:

1. Plans date stamped October 26, 2015.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. reduce the rear yard setback of 1070 Finlayson Street from 8.98m to 4.67m.
3. Final plans to be in accordance with the plans identified above to the satisfaction of City staff.
4. The Development Permit lapsing two years from the date of this resolution."

LEGISLATIVE AUTHORITY

In accordance with Section 922 of the *Local Government Act*, Council may issue a Development Variance Permit that varies a *Zoning Regulation Bylaw* provided the Permit does not vary the use or density of land from that specified in the *Zoning Regulation Bylaw*.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Variance Permit Application for the properties located at 1066 and 1070 Finlayson Street. The proposal is to reduce the rear yard setback of the property located at 1070 Finlayson Street in order to facilitate a subdivision to create a new lot.

The following points were considered in assessing this Application:

- each of the proposed three lots would be larger than the minimum site area required in the R1-B Zone (Single Family Dwelling District)

Zoning Criteria	1066 Finlayson	1070 Finlayson	Proposed New Lot on Jackson	R1-B Zone Standard
Site area (m ²) – minimum	575.20	575.20	496	460
Lot width (m) - minimum	16.52	16.52	15	15
Total floor area (m ²) – maximum	300	180	n/a	300
Height (m) – maximum	6.40	5.60	n/a	7.6
Site coverage (%) – maximum	20	30	n/a	40
Storeys – maximum	2.5**	2	n/a	2
Setbacks (m) – minimum				
Front	6.19**	12.32	n/a	7.5
Rear	10.67	4.67*	n/a	8.98/8.98/8.27
Side (west)	3.42	1.55**	n/a	3.0 or 10% of the lot width
Side (east)	1.72	n/a	n/a	1.65
Side on flanking street (east)	n/a	3.43**	n/a	3.5
Combined side yards	5.14	4.98	n/a	4.5
Parking – minimum	1	1	n/a	1

Relevant History

In August 2014, the applicants applied for a Development Variance Permit to reduce the lot width of a proposed new lot from 15m to 14m and to reduce the rear yard setback at 1070 Finlayson Street to facilitate a similar subdivision under the R1-B Zone. At the Council meeting on January 15, 2015, Council declined the Application. The applicants have revised the proposal so that only one variance is required for 1070 Finlayson Street and no variances are required for the proposed new lot.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, on November 10, 2015, the Application was referred for a 30-day comment period to the Hillside-Quadra Neighbourhood Action Group. At the time of writing this report, a letter from the CALUC had not been received.

This 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

Official Community Plan

The *Official Community Plan 2012* (OCP) Urban Place Designation for the subject property is Traditional Residential. The strategic direction in the OCP for Hillside-Quadra Neighbourhood encourages the preservation of the ground-oriented Traditional Residential character in the majority of the neighbourhood. The proposal is consistent with the goals and objectives of infill development in the OCP.

Hillside-Quadra Neighbourhood Community Plan

The Application is consistent with the *Hillside-Quadra Neighbourhood Community Plan (1996)*, which recommends that much of the neighbourhood should be kept as low-density housing, such as single family homes with secondary suites, single family homes on small lots and duplexes.

Regulatory Considerations

The applicants are requesting to reduce the rear yard setback at 1070 Finlayson Street from 8.98m to 4.67m in order to subdivide 1070 Finlayson Street to create one new R1-B lot. The proposed rear yard setback would reduce the area of the rear yard space associated with the existing property, however, there is extensive landscaping and private amenity space in the front yard of this property. An existing carport, deck and a portion of concrete driveway located in the rear yard would be removed and replaced with new landscaping, which will provide additional useable private amenity space on the lot.

If a new dwelling unit is constructed on the subject property in the future, the rear yard setback variance, should it be approved, would no longer apply and the new dwelling unit would have to comply with the setbacks in the R1-B Zone.

Other Considerations

The applicants have an alternative subdivision plan that does not require any variances and can proceed through the subdivision approval process without requiring any Council permissions. However, the proposed new lot is "L-shaped" and the proposed frontage is approximately 11m. The lot width requirement in the R1-B Zone is a minimum average of 15m and this average can be achieved with the wider area of the lot being located in the rear lot of 1066 Finlayson Street. This lot configuration does not fit as well with the overall streetscape and lot pattern of the neighbourhood.

The proposed new lot associated with this Application is a much better fit for the neighbourhood. With a 15m wide frontage, the streetscape pattern and visual character of the neighbourhood would be maintained. Whereas, an "L-shaped" lot would detract from the existing streetscape pattern and residential character, and impose limitations on building design where the massing and proportion of a dwelling unit would not resemble the existing character of the neighbourhood.

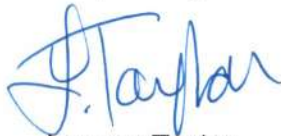
CONCLUSIONS

This proposal to facilitate a subdivision is consistent with the goals and objectives for infill development in the *Official Community Plan* and the *Hillside-Quadra Neighbourhood Community Plan*. The proposed rear yard setback variance at 1070 Finlayson Street would reduce the area of the rear yard space associated with the existing property, however, there is extensive landscaping and private amenity space in the front yard of this property. Staff recommend that Council consider supporting this Application.

ALTERNATE MOTION

That Council decline Develop Variance Permit Application No. 00163 for the property located at 1066 and 1070 Finlayson Street.

Respectfully submitted,



Leanne Taylor
Senior Planner
Development Services Division

am



Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

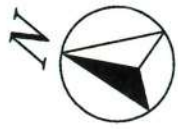
Report accepted and recommended by the City Manager:



Date: December 3, 2015

List of Attachments

- Zoning map
- Aerial map
- Letter from applicant dated October 26, 2015
- Plans dated October 26, 2015.



1066 and 1070 Finlayson Street
Development Variance Permit #00163





1066 and 1070 Finlayson Street
Development Variance Permit #00163



Lissa Laing Punnett
Christopher David Punnett
1066 Finlayson Street
Victoria, BC
V8T 2T7
250-701-7089

C.J. Van Elslande
Gordon Van Elslande
1070 Finlayson Street
Victoria, BC
V8T 2T7
250-384-4862

October 26, 2015

Hand Delivered

City of Victoria
1 Centennial Square
Victoria, BC
V8W 1P6



Dear Mayor and Council:

Re: 1066 and 1070 Finlayson Street, Victoria, BC
Development Variance Permit Application

Enclosed please find our application for a development variance permit regarding the properties located at 1066 and 1070 Finlayson Street, Victoria.

To accommodate the creation of the new lot, we are requesting Council's approval for one internal variance, and that is to allow a reduction in the size of the rear yard at 1070 Finlayson Street from 8.98M to 4.67M.

Council may recall that our first application requested Council's approval to allow us to create a third R1B (Single Family) lot from portions of the rear yards of the above noted properties, (both R1B). To accommodate the creation of a new lot, two variances were requested: to reduce from 15M to 14M the Jackson Street frontage for the new lot and to reduce the size of the standard rear yard at 1070.

At the beginning of the process in the fall of 2012, we discussed our proposal with all of the adjacent neighbours and with their support in hand, we presented the initial plan to the Land Use and Transportation committee at Hillside-Quadra. The committee expressed no concerns. After a lengthy delay due to illness, we presented the completed development variance permit application to City Planning in September 2014. City Planning recommended that Council approve our application indicating that the proposal met all of the requirements of the Hillside Quadra Community Plan and the Official Community Plan. Council's Planning Committee forwarded the application to Public Hearing.

After the date for public hearing was set, our adjacent neighbours expressed concerns about our proposal. We met with those neighbours to discuss their concerns, however no agreement was reached.

The public hearing was held in January 2015. Several Jackson Street residents spoke against our application, including the adjacent neighbour who presented Council with a petition signed by some residents who objected to the proposed variance to reduce the Jackson Street frontage. Council declined our development variance permit application and as a result we are re-submitting an amended application which increases the Jackson Street frontage for the proposed lot to the standard 15M. (As the width variance was the primary objection to our first application, we trust that this new proposal will not meet with further objection.)

Additionally, we would like to inform Council that should this development variance permit application be declined, we will proceed with a straightforward subdivision application, which would create an L-shaped irregular lot meeting the standards of the R1B zone even though Jackson street frontage would be reduced to 10.15M. We believe that an, irregularly shaped would not be as desirable an option given the neighbours' objection to the 14M frontage previously proposed.

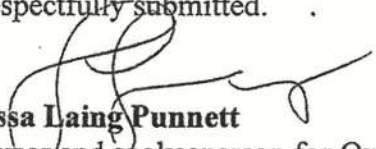
All three properties resulting from the development variance permit application process or from a subdivision process, would exceed the area standards of R1B zoning, would require no re-zoning and would retain the neighbourhood's traditional residential flavour as envisioned in the HQ neighbourhood plan and in the OCP.

We provided our adjacent neighbours with the above information in writing, together with our contact information. We then presented our new plans to the Hillside-Quadra Neighbourhood Action Group on October 5th, 2015. A copy of our letter to our neighbours is attached for your reference.

For further background information, we have enclosed our April 2014 letter to Council, which was submitted with the original application.

Should further clarification be needed, please contact us.

Respectfully submitted.



Lissa Laing Punnett

Owner and spokesperson for Owner Group – Authority letter on file
250-896-7087

Copy of original April 2014 letter:

Lissa Laing Punnett
Christopher David Punnett
1066 Finlayson Street
Victoria, BC
V8T 2T7
250-701-7089

C.J. Van Elslande
Gordon Van Elslande
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April 9, 2014

COPY

City of Victoria
1 Centennial Square
Victoria, BC
V8W 1P6

Dear Mayor and Council:

Re: 1066 and 1070 Finlayson Street, Victoria, BC
Development Variance Permit Application

Enclosed herein please find our completed Development Variance Permit Application, together with all required documentation, for your consideration. We are the owners of the above-noted properties and the applicants herein.

It is our intention, upon receipt of the approved variance, to follow through with a subdivision and create three full sized R1B lots out of our existing two R1B lots. We are not requesting a rezoning of the lots. The proposed subdivision is consistent with the City's Official Community Plan (OCP) which envisions the Hillside-Quadra community as maintaining its primarily "traditional residential nature". The OCP also indicates that within the traditional residential area, new development, infill and redevelopment will be considered providing it complies with the plan for the area.

We provide the following information for your reference:

1. 1066 and 1070 are located at the northwest corner of Finlayson Street at Jackson Street. Both 1066 and 1070 are significantly larger lots than the minimum required under the current R1B zoning. From these two properties we propose to create three lots, with all three exceeding the minimum lot size required under the current zoning.
2. Similar subdivision has occurred in the immediate neighbourhood with no apparent negative impact; namely, at northeast corner, (directly across Jackson Street from 1070), where the side yard of 3105 Jackson Street was combined with the backyard of 1110 Finlayson Street to create a new lot facing Jackson Street.

At the southwest corner, directly across from 1066 and 1070 Finlayson Street, the backyards of 1079 and 1085 Finlayson Street were also combined to create a new lot, facing Jackson Street.

3. The home at 1066 faces Finlayson Street, whereas the home at 1070 faces Jackson Street. The proposed new lot will front on Jackson Street. A variance will be requested to relax the new lot's width from 15m to 14m. We feel that this variance request is reasonable given that, in the adjacent block of Finlayson Street, there are several properties with approx. 14m. frontages; namely at 1124, 1126, 1130, and 1132 Finlayson Street. There is another at 3125 Fifth Street.
4. The home at 1070 faces the 3100 block of Jackson Street. Both its front and rear yards appear to be side yards. A variance will be requested to relax its rear yard setback from 7.5m to approximately 5.67m, which will allow for a single driveway and a strip of landscaping between it and the proposed new lot.

We feel that these variance requests are reasonable given that most of the homes along this block of Jackson Street are separate from each other by a similar distance, that being a single driveway and a narrow strip of landscaping. A home on the proposed new lot would not therefore look out of place. We have enclosed a "proposed" workup photo of how a home may look on the lot, as well as actual photos of how the property looks today.

The proposal has been discussed with all immediate neighbours - those who abut the proposed lot and those who are directly across from 1066 and 1070. None of those contacted oppose the proposed subdivision, although the neighbour abutting the north lot line indicated that he is not opposed providing the privacy in his backyard is preserved. Currently there is an almost 20' established hedge between his backyard and the proposed lot and there are no plans to remove that hedge which will provide for privacy for both lots.

There are no significant trees on the property.

The City's utilities are nearby.

The proposed subdivision is within easy walking distance of both Quadra Village centre and Tolmie Village at Quadra.

Jackson Street is the City's designated bike route.

Finlayson at Jackson is serviced by Transit bus #8 on Finlayson and #6 on Quadra.

Over the years there have been several re-zonings and development in the immediate neighbourhood.

At the northeast end of the 3100 block of Jackson Street, 3149 Jackson Street was rezoned and it now supports a large front to back duplex. The duplex at 3159 Jackson Street was converted to 4 strata titled units. Neither of these developments appear to have had a negative impact on our community. We as applicants also live on the properties and participate in this community with our families.

Currently, there is a townhouse development being proposed for Tolmie Avenue, between Fifth and Jackson.

We presented preliminary plans to the Neighbourhood Action Group at the Blanshard Community Association on November 4, 2013.

Thank you for your consideration of our development variance permit application. Please do not hesitate to contact us should you require any further information or clarification of materials provided.

Respectfully submitted,

Per: **COPY**

Lissa Laing Punnett

On behalf of all registered owners – see Letter of Authority on File

B. C. LAND SURVEYOR'S SITE PLAN TO ACCOMPANY SUBDIVISION PROPOSAL FOR:

THE EAST AND WEST HALVES of LOT 29,
SECTION 4, VICTORIA DISTRICT, PLAN 796

FILE: 10945 - 32
DATE: 1995-02 / 2015-05-15
Brad Cumlin Land Surveying
4100 - 407 Swift Street
Victoria, BC V8M 1S2
ph 381-8250 fax 381-2289

SCALE = 1 : 200



All distances are in metres AND decimals thereof.

LEGEND

Elevations are geodetic based on The City of Victoria
Integrated Survey Monument 32-25 Elev. = 38.160m

Grade shot are taken at the point marked x,
grade shots at a curb line are in gutter.

Tree bases and canopies approximately to scale.
Where tree location is critical, tree species
and canopy should be confirmed by qualified arborist.

SITE AREA

1646, 4m²
17721 s. f.

MUNICIPALITY

Victoria

ZONING

R1-B

PID No.

E'y 1/2 Lot 29 - 001-885-464
W'y 1/2 Lot 29 - 003-224-198

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It is based on Land Title Office records, and does not
represent a boundary survey. Critical lot dimensions
and areas must be confirmed by a proper cadastral survey.

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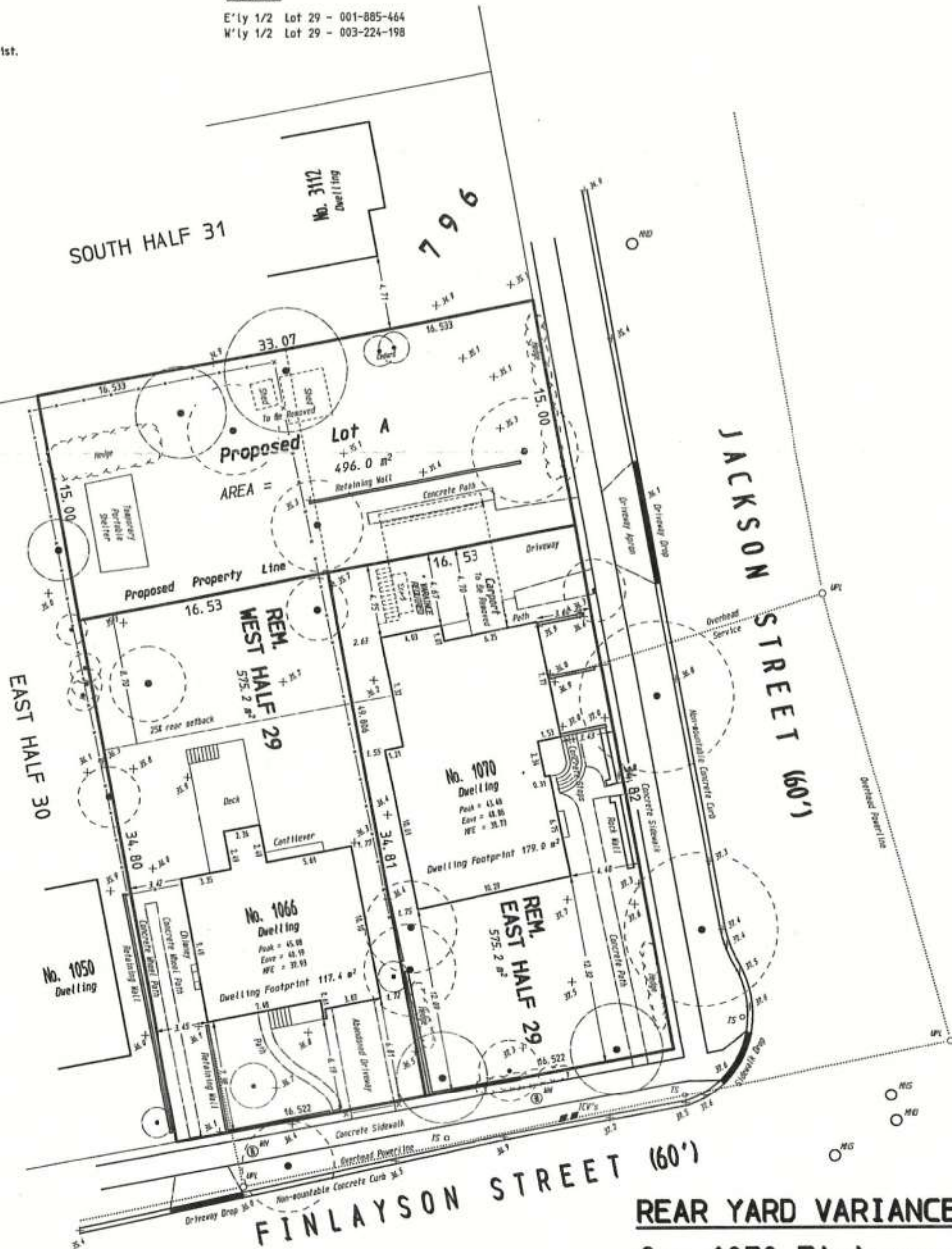
- UPE ○ - denotes Utility Pole with Light
- CB ■ - denotes Catch Basin
- MS ○ - denotes Manhole (Sanitary)
- MB ○ - denotes Manhole (General)
- WV ○ - denotes Water Meter
- TS ○ - denotes Traffic Sign
- ICV ■ - denotes Irrigation Control Valve
- x - denotes fence-line



PLAN

CERTIFIED CORRECT

Brad Cumlin
Bradley W. Cumlin, BCIS
Field Survey - 8 November, 2015.
Signed this 20th day of May, 2015.
This document is not valid unless originally signed by Brad Cumlin.
This document is copyrighted and may not be copied, transmitted
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The signatory accepts no responsibility or liability for any damages
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REAR YARD VARIANCE
for 1070 Finlayson