



## **Planning and Land Use Committee Report**

### **For the Meeting of November 26, 2015**

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**To:** Planning and Land Use Committee

**Date:** November 11, 2015

**From:** Stephen Stern, Land Development Technologist  
Engineering and Public Works

**Subject:** Amendment to the Housing Agreement for 1035 Oliphant Street

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#### **EXECUTIVE SUMMARY**

Four strata lots located at 1035 Oliphant Street are subject to a Housing Agreement with the City, wherein the owners agree they will not take any steps to restrict rental housing within the strata, and that Strata Lot 2 within the building will be used only as a rental housing for a period of five (5) years.

The owners of the 1035 Oliphant Street strata lots are requesting that Council agree to amend the Housing Agreement to permit a change in the Strata Lots within Strata Complex EPS690 designated in the current Housing Agreement. The Housing Agreement has Strata Lot 2 (main floor) designated as a rental unit for a period of 5 years and the owner wishes to have the rental designation switched to Strata Lot 4 (upper floor).

#### **SUMMARY**

The Housing Agreement was part of the Strata Conversion conditions for 1035 Oliphant Street that was approved by Council on August 28, 2013. The only substantial change resulting from the requested amendment would be that Strata Lot 4, instead of Strata Lot 2, would be subject to the 5 year rental housing unit requirement. All other terms of the agreement would remain the same. With the requested amendment, the Housing Agreement still secures one unit, without conditions, as rental for the remainder of full 5 years, and it still ensures that the Strata Bylaws not restrict rental within the other three units. The existing Housing Agreement would remain in force from starting from the date of registration of the strata plan (EPS690). The Strata Lot would move from the main floor (77.1 m<sup>2</sup>) to the upper floor (99.1 m<sup>2</sup>) of the Strata Complex.

In addition to entering into the Housing Agreement, the owner of that Strata Lot 2 registered a section 219 Covenant against that strata lots title, wherein the owner covenanted that the unit would only be used in accordance with 5 year rental housing obligations of Housing Agreement. The owner of Lot 4 has agreed to grant the same type of covenant to the City if the City agrees to the Housing Agreement amendment.

#### **RECOMMENDATIONS:**

Staff recommend that Council:

1. Authorize the Mayor to execute a section 219 Covenant wherein the owner of Strata Lot 4, Fairfield Farm Estate, Victoria City District, Strata Plan EPS690 agrees to use the strata lot only as rental housing for a period of five (5) years from the date of an occupancy permit in a form satisfactory to staff;

2. Authorize the Mayor to execute a discharge of the section 219 Covenant (CA4303499) from Strata Lot 2, Fairfield Farm Estate Victoria City District Strata Plan EPS690, in a form satisfactory to staff; and
3. Adopt Bylaw No. \_\_\_\_\_ to authorize the Mayor and Corporate Administrator to execute the Amendment to Housing Agreement.

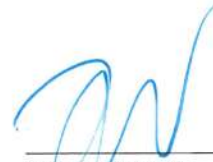
Respectfully submitted,



Stephen Stern  
Land Development Technologist  
Engineering and Public Works



Jas Paul  
Assistant Director  
Engineering and Public  
Works



Fraser Work  
Director  
Engineering and Public  
Works

Report accepted and recommended by the City Manager:



Date:

November 17, 2015

**HOUSING AGREEMENT AMENDMENT (1035 OLIPHANT AVENUE) BYLAW**

**A BYLAW OF THE CITY OF VICTORIA**

The purpose of this Bylaw is to authorize an amendment to an agreement for rental housing for the lands known as 1035 Oliphant Avenue, Victoria, B.C., as previously authorized under the terms of Bylaw No. 14-010, Housing Agreement (1035 Oliphant Avenue) Bylaw.

Under its statutory powers, including section 905 of the *Local Government Act*, the Council of The Corporation of the City of Victoria enacts the following provisions:

**Title**

- 1** This Bylaw may be cited as the "HOUSING AGREEMENT AMENDMENT (1035 OLIPHANT AVENUE) AUTHORIZATION BYLAW".

**Agreement authorized**

- 2** The Mayor and the City's Corporate Administrator are authorized to execute the Amendment to Housing Agreement:
- (a) substantially in the form attached to this Bylaw as Schedule A;
  - (b) between the City, Theresa Gail Norton, Gordon Owen Telford, Anita Telford, and Collin James Reynolds or other registered owners from time to time of the lands described in subsection (c); and
  - (c) that applies to the lands known as 1035 Oliphant Avenue, and legally described as:
    - PID: 029-533-694  
STRATA LOT 1 FAIRFIELD FARM ESTATE VICTORIA CITY DISTRICT  
STRATA PLAN EPS690
    - PID: 029-533-708  
STRATA LOT 2 FAIRFIELD FARM ESTATE VICTORIA CITY DISTRICT  
STRATA PLAN EPS690
    - PID: 029-533-716  
STRATA LOT 3 FAIRFIELD FARM ESTATE VICTORIA CITY DISTRICT  
STRATA PLAN EPS690

ADOPTED on the \_\_\_\_\_ day of \_\_\_\_\_ 2015.

MAYOR



# PETER NIKOLICH LAW CORPORATION

BARRISTER & SOLICITOR

#202 - 1006 Fort Street  
Victoria, B.C. V8V 3K4

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File No. 4328  
August 18, 2015

via email: sstern@victoria.ca

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

Attention: Stephen Stern

Dear Sirs/Mesdames:

**RE: Strata Conversion of Lot 14, Block 1, Fairfield Farm Estate, Victoria City, Plan 917  
(1035 Oliphant Street)  
Developer: THERESA GAIL NORTON**

I confirm that I am the solicitor for Theresa Gail Norton with regard to her abovenoted strata conversion development, which has been registered as Strata Plan EPS690.

My client wishes to modify the Housing Agreement to change the rental unit from Strata Lot 2 to Strata Lot 4 and has instructed me to contact you and request that you initiate the process for the modification of the Housing Agreement, the release of Covenant CA4303499 from Strata Lot 2 and the registration of a new Covenant on Strata Lot 4.

My client has entered into contracts for the sales of both Strata Lots 2 and 4 and is anxious to complete the change of rental unit as soon as possible. Please advise as to when you anticipate that the steps necessary to effect the change will be completed.

Please do not hesitate to contact me if you require anything further from my client at this time or at any time during the modification process.

I trust the foregoing to be in order and look forward to hearing from you at your earliest convenience.

Yours truly,

PETER NIKOLICH LAW CORPORATION

Per:  
Peter Nikolich

cc. Client

**Legislative and  
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Department**

Legislative Services

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September 05, 2013

Ms. Theresa G. Norton  
307 – 1381 Pandora Avenue  
Victoria, BC V8R 1A4

Dear Ms. Norton:

**Re: Strata Conversion Application for 1035 Oliphant Street**

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At the Victoria City Council meeting on August 29, 2013, Council passed the following resolution:

That Council, acting as the Approving Authority under the Strata Property Act:

1. Approve the proposed strata plan subject to the following terms and conditions:
  - a. Within one year and upon an occupancy permit issued for the creation of four new Strata Units, the owner enters into a Housing Agreement, to the satisfaction of the City Solicitor, to secure one of the strata units as rental for a period of 60 Months and to ensure that the Strata Bylaws do not restrict rentals within the building.
  - b. Within one year the owner obtain and submit occupancy permits for the completion of all required building permit work at 1035 Oliphant Street for the proposed strata units, and provide written confirmation that on site parking conforms to Schedule "C" of the *Zoning Bylaw*. Confirmation in writing will be required from the Planning Department. Parking allocation is to be clearly defined in the final strata plans.
  - c. Within one year, the owner satisfies all conditions to create strata units at 1035 Oliphant Street identified in the preliminary Statement of Conditions letter attached.
  - d. Within one year, the owner, hire a British Columbia Land Surveyor to arrange to prepare the final strata plan.
  - e. Within one year the owner's lawyer provide a letter of undertaking to the City Solicitor stating that a registered copy of the approved strata plan, a copy of each new title search, and a copy of any registered documents required as a result of this application will be forwarded to the Land Development Technologist upon registration at the Land Title Office. This letter of undertaking shall also state that the final strata plan will be registered concurrently with any required easements, rights of way, or covenants associated with this application, and shall be registered in priority to any other charges against the property. If for any reason the strata plan is not deposited with the Land Title Office, it will be returned to the Approving Officer of the City of Victoria.



**Legislative and  
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Services  
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Ms. Theresa G. Norton

- 2 -

September 05, 2013

- f. The owner submits the preliminary strata plan(s) containing all required copies of any information as noted in (b) or (c), within 30 days prior to issuance of final occupancy to the Land Development Technologist to arrange for an inspection of the proposed Strata units.
- g. The owner submits the final strata plan package containing copies of any required information to the Land Development Technologist. Submitted plans and documents will be sent to the Approving Officer for review and approval.
- h. The owner pays a strata approval fee to the City prior to the final strata approval.
- i. The owner agrees to bear all costs, including the City's legal and consulting costs, associated with the registration of the strata plan or the fulfilment of these conditions.

If any other information comes to light before an application is made for strata plan approval under Section 242 of *Strata Title Act*, these statements may be reconsidered and altered. It is also noted that approval of any strata plan will be subject to compliance with all legislation and regulations.

- 2. That Council designate the Approving Officer as the authorized signatory in relation to this application for the purpose of Section 242(8) of the *Strata Property Act*.

Should you have any questions in regards to your application, please contact Stephen Stern, Land Development Technologist, at 250.361.0501.

Yours truly,

A handwritten signature in blue ink, appearing to read "R. Woodland", written over a horizontal line.

Robert G. Woodland  
Corporate Administrator

:jh

C: Dwayne Kalynchuk, Director of Engineering and Public Works  
Fairfield Gonzales Community Association