



Planning and Land Use Committee Report For the Meeting of November 26, 2015

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

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 m²) to the upper floor (99.1 m²) 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

PETER NIKOLICH LAW CORPORATION

BARRISTER & SOLICITOR

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

TEL: (250) 388-6600
FAX: (250) 388-6766
E-mail: peter@nikolichlaw.com

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
Regulatory
Services
Department**

Legislative Services

#1 Centennial Square

Victoria

British Columbia

V8W 1P6

Tel (250) 361-0571

Fax (250) 361-0348

www.victoria.ca

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

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.

