



## Planning and Land Use Committee Report

### For the Meeting of January 29, 2015

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**To:** Planning and Land Use Committee      **Date:** January 15, 2015  
**From:** Murray G. Miller, Senior Heritage Planner  
**Subject:** Rezoning Application #00470 for 520 Niagara Street

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#### RECOMMENDATION

Staff recommend that Committee forward this report to Council and that Council instruct staff to prepare an amendment to the *Zoning Regulation Bylaw* to develop a new zone based on the existing R-2 Zone and include a bonus density provision consistent with the *Official Community Plan* (OCP) that would permit opportunities for bonus density up to 1:1 (maximum) Floor Space Ratio (FSR) conditional on Heritage Designation of the Cathedral School at 520 Niagara Street, and that Council consider first and second reading of the amendment to the *Zoning Regulation Bylaw* at the March 12, 2015 Public Hearing.

#### LEGISLATIVE AUTHORITY

In accordance with Section 904 of the *Local Government Act* (LGA), Council is authorized to establish different density regulations for a zone that will entitle an owner to bonus density for the conservation or provision of amenities. Council is also authorized under Section 967 of the LGA to designate property of heritage value to be protected heritage property.

#### EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a City-initiated Rezoning Application for the property located at 520 Niagara Street. The City has initiated this, with direction from Council, given a previous application to demolish an existing Heritage-Registered building on the property (Cathedral School). The City placed a Temporary Protection Order on the property so that staff could work with the landowner to explore redevelopment opportunities that could incorporate conservation of the building.

The proposal is to provide a zoning incentive for the designation of the Heritage-Registered Cathedral School, currently listed on the *City of Victoria Register of Heritage Properties*. The property is currently in the R-2 Zone, Two Family Dwelling District, which permits density of 0.5:1 floor space ratio (FSR). A new zone would be proposed that would provide opportunities for bonus density beyond this, up to 1:1 (maximum) FSR conditional on Heritage Designation of the Cathedral School.

The following points were considered in assessing this application:

- consistency with the OCP which permits density up to 1:1 (maximum) FSR in the Traditional Residential designation, and with policy 8.52, that enables consideration for bonus density and zoning variances to support heritage conservation
- consistency with the *James Bay Neighbourhood Plan* where it promotes the continued life of heritage structures through land use controls such as density.

Since the present Temporary Protection Order on the property will expire on March 15, 2015, staff recommend that Council consider the amendment following a Public Hearing on March 12, 2015.

## **BACKGROUND**

### **Description of Proposal**

This City-initiated Rezoning Application, developed in cooperation with the Anglican Diocese of BC, proposes a bonus density zone that would make available an increase in density from 0.5:1 FSR up to 1:1 (maximum) FSR and to permit attached dwellings conditional on Heritage Designation of the Heritage-Registered Cathedral School.

### **Sustainability Features**

The Cathedral School has cultural value for present and future generations. Reuse and rehabilitation of heritage buildings reduces construction waste to landfills, and the energy savings and reduced carbon impact of rehabilitating the Cathedral School versus demolishing it and building a new one is expected to contribute to sustainability objectives.

### **Land Use Context**

The immediate area is characterized by single family dwellings, duplexes and multi-unit residential buildings.

### **Existing Site Development and Development Potential**

The site is presently occupied by the Cathedral School and is used as a day care. Under the current R-2 Zone, the property appears to have the potential for a development that would accommodate one duplex and one single family dwelling with a secondary suite. Once the current Temporary Protection Order expires on March 15, 2015, the Heritage-Registered building will no longer be protected.

### **Relevant History**

On October 16, 2014, Council passed the following resolution pursuant to the *Local Government Act* (the "Act"), ordering the temporary protection of the Cathedral School with the written agreement of the Diocese:

1. *That Council resolves that, pursuant to Section 962(1)(a) of the Local Government Act, the property located at 520 Niagara Street be subject to temporary protection for a period of five months commencing on October 18, 2014.*
2. *That Council direct staff to initiate an expedited Rezoning Application in collaboration with the owner for the property located at 520 Niagara Street for consideration of a bonus density zone consistent with the Official Community*



*Plan that would provide opportunities for bonus density in exchange for Heritage Designation of the building, and that the pre-application CALUC meeting be waived; and*

3. *That Council consider adopting the Statement of Significance for St. James Mission of Christ Church Cathedral School located at 520 Niagara Street.*

The purpose of the temporary protection was to allow time for staff to continue to negotiate with the landowner to explore options regarding future development opportunities that could result in retention and protection of the Heritage-Registered Cathedral School. Staff have participated in discussions with the Diocese, architects and potential developers in order to explore options for moving forward. Based on those discussions, staff are now reporting back on an expedited schedule that would include consideration by Council and possibly the setting of a Public Hearing date prior to the expiration of the temporary protection on March 15, 2015.

### **Community Consultation**

On October 16, 2014, Council waived the requirement for a pre-application CALUC meeting, but directed that staff meet with the CALUC before the application is considered by the Planning and Land Use Committee (PLUC). On December 22, 2014, staff consulted with the James Bay Neighbourhood Association's Development Review Committee as a precursor to attending the regular CALUC meeting.

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, staff consulted with the James Bay CALUC at a Community Meeting held on January 14, 2015. A letter dated January 16, 2015 from the James Bay Neighbourhood Association is attached to this report.

### **ANALYSIS**

#### **Official Community Plan (2012)**

The OCP - Urban Place Designation identifies this particular James Bay property as "Traditional Residential". The Traditional Residential designation envisions buildings up to two storeys and density ranging up to approximately 1:1 floor space ratio (FSR). An opportunity exists for a new zone that uses the existing R-2 Zone as the base zone and is consistent with the use, densities and height envisioned for the Traditional Residential designation and Placemaking policy (8.52), which encourages support for heritage conservation through incentives and allowances, including bonus density provisions and zoning variances. The new zone would be consistent with the Traditional Residential designation by enabling ground-oriented buildings up to two storeys that face the street.

#### **Local Area Plans**

This proposed zoning amendment is consistent with key objectives of the *James Bay Neighbourhood Plan* where it encourages the rehabilitation of buildings of heritage significance which contribute to the neighbourhood's attractive character and the continued economic life of the Cathedral School.

#### **Consistency with Other Guidelines**

If the zoning amendment is adopted and the applicant chooses to redevelop the property under the bonus density option, a future Heritage Alteration Permit would be required and the applicant would need to demonstrate consistency of a development proposal with OCP policies and guidelines.

## CONCLUSIONS

This proposed rezoning amendment has been developed in cooperation with the Anglican Diocese of BC after two consecutive Temporary Protection Orders were placed on the property in accordance with the *Local Government Act*. A third order is set to expire on March 15, 2015, and following Council's instructions for staff to explore options with the Diocese, staff propose a new zone that is consistent with the OCP, which encourages support for heritage conservation through incentives and allowances, including bonus density provisions and zoning variances.

Making available density up to 1:1 (maximum) FSR is consistent with the OCP and furthers heritage conservation objectives including the conservation of heritage property as resources with value for present and future generations.

## ALTERNATE MOTION

That Council decline Rezoning Application #00470 for the property located at for 520 Niagara Street.

Respectfully submitted,

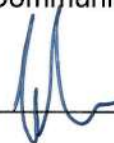


Murray G. Miller  
Senior Heritage Planner  
Community Planning Division



Andrea Hudson  
Assistant Director  
Community Planning Division  
Sustainable Planning and Community Development

Report accepted and recommended by the City Manager:



Jason Johnson

Date:

January 22, 2015

MGM/ljm

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## List of Attachments

- Zoning map
- Aerial map
- Letter from the James Bay Neighbourhood Association, dated January 16, 2015.













## James Bay Neighbourhood Association

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234 Menzies St  
Victoria, B.C.  
V8V 2G7

[www.jbna.org](http://www.jbna.org)

January 16<sup>th</sup>, 2015

Mayor and Council  
City of Victoria

Dear Mayor and Councilors,

**Re: 520 Niagara Street (Cathedral School) – Rezoning Proposal**

Attached please find an excerpt from the draft minutes of the January 14<sup>th</sup> JBNA meeting which considered the City initiated “incentive” rezoning of 520 Niagara, Cathedral School.

Unfortunately, the meeting did not provide a satisfactory review of the proposed rezoning. A review of the December 22<sup>nd</sup> JBNA DRC (Board development review sub-committee) meeting and a summary of the information presented at the January 14<sup>th</sup> meeting assist in understanding the dilemma now before us:

**December 22<sup>nd</sup>, 2014 DRC meeting:**

In mid-December we were contacted by Murray Miller, Senior Heritage Planner, who requested that the 520 Niagara rezoning CALUC meeting occur at the January JBNA meeting. To ensure that the proposal was well enough developed to present at the open public meeting, we scheduled a pre-CALUC meeting with a DRC session that occurred on December 22<sup>nd</sup>.

Tom Coyle, Tim Van Alstine, Trevor Moat and I had a most useful and positive discussion with Murray. We saw the possibility for an incentive zoning, with creativity. However, it was obvious that a CALUC meeting would be premature given the state of the proposal. Nevertheless, we scheduled the CALUC meeting for January to assist the city in keeping its schedule to create a rezoning incentive prior to March 15<sup>th</sup>. We discussed the need for the actual development proposal to come back through the community in a CALUC-like process. We were also assured that the presentation to the community would have the same detail as the presentation to be given to PLUC on January 29<sup>th</sup>.

**January 14<sup>th</sup>, 2015 JBNA-CALUC meeting:**

Unfortunately, the City presentation was essentially the same as the mid-December DRC presentation. The proposal was not further fleshed out. Residents' questions, most appropriately, were directed to the uncertainty that may accompany an incentive rezoning as described.

**Discussion and Request:**

The JBNA Board, and we believe most residents, appreciate the building structure and its historical importance. All understand that to keep the building, and the corner, a creative solution needs to be found. At the same time, it is recognized that neighbours immediately east and north of the property need confidence that their properties, and privacy, will not be unduly compromised by what could be.

Those present also understand the time (March) deadline for consideration of a rezoning "incentive".

**Questions/Concerns that need to be resolved include but may not be restricted to:**

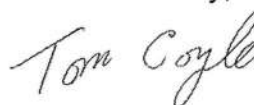
- 1) Ensuring that the rezoning does not permit zoning relaxation beyond that defined by the OCP.
- 2) Ensuring that the City will not consider rezoning relaxation beyond that defined by the OCP in the months ahead after the property is sold and a development proposed.
- 3) Ensuring that the rezoning "incentive" reverts to the current zoning if at anytime the building is purposely demolished.
- 4) Ensuring that there is a process whereby any development proposal comes through a CALUC-like process if and when a development proposal is submitted.
- 5) Ensuring that there is a process whereby any variance to any rezoning comes through a CALUC-like process if and when a development proposal is submitted and going forward at anytime before completion of a development.

In conclusion, since detail, wording, of the rezoning incentive was not brought forward to the public, fulfilling the consultation requirement as intended under the CALUC process is now questionable.



Marg Gardiner  
President, JBNA

Sincerely,



Tom Coyle  
Chair, JBNA CALUC

Cc: Murray Miller  
Residents who asked to be kept informed  
JBNA Board  
Attach: Excerpt of draft minutes



## **Excerpt from Draft Minutes of JBNA Public Meeting of January 14<sup>th</sup>, 2015**

*Due to the City's expedition of the rezoning (incentive) proposal, the excerpt provided is from minutes not yet reviewed.*

### **6. CALUC: 520 Niagara rezoning proposal – Cathedral School Murray Miller, Senior City Heritage Planner**

This is a city re-zoning application to increase the density on the property and is consistent with the City's OPC.

Murray provided information including a 3-page handout that included information on:

- ~ Background from Dec 30 2013 when the City received an application for demolition of the school followed later by an application for building permit for the construction of a single family dwelling
- ~ July 24 2014 Council passed a resolution ordering the temporary protection of the school for 60 days and entered into discussions with the Anglican Diocese during which extensions were agreed upon.
- ~ As an incentive to protect the structure and register it as a heritage property a density increase through rezoning is being proposed. The rezoning is to be respectful of the city's OCP which permits a fsr ration of 1:1 while the current zoning permits 0.5:1.
- ~ proposal is consistent with the JB Neighbourhood Plan *vis a vis* heritage preservation
- ~ the Character-Defining Elements of the property

The specific rezoning proposal is meant to promote the continued life of the heritage structures through land use controls such as density, mixed uses and creative parking provision solutions. City's rational to rezone is to create density conditions that are attractive to a developer who would be required to conserve and adapt the building while maintaining the visibility of the west and south portions of the building and property

*Note: handout to be attached to minutes which will be circulated at February JBNA meeting.*

Q/A:

Notes:

- 1) *With the exception of JBNA DRC members, all but two of the speakers reside on Niagara, Medana or Clarence.*
- 2) *MG=Marg Gardiner, TC=Tom Coyle*

Q – The site specific rezoning hasn't been developed as yet?

A – correct

Q – this isn't the standard application of re-zoning. Why is City initiating?

A – City is not make application on behalf of the owner. Rather, City is trying to create an incentive for the owner to NOT demolish the building. This is a concept based on the OCP, balancing the heritage and surrounding residences and will it be supported in principal

Q – What is in the mind of the owner?

A – The owner wants to demolish the property, wants to get the maximum value out of the property.

Q – will there be a density bonus associated with the proposal

A – the incentive to NOT demolish the structure is the bonus for the community.

C/Q – Want to know what the owner is intending before any rezoning is approved. Why is city wanting to make it easier for the developer?

A – Not making it any easier for owner will still have to go through development application

Q – MG – At the December DRC, committee had requested that the City ensure that the proposal come back to the community once a development proposal is forwarded for a CALUC-like review. Given statements made by residents, there is an interest by nearby residents to be kept apprised of the changes to the file – will City commit to informing residents who provide e-mail addresses of changes/events relating to the proposal?

A – Staff have discussed items that came out of DRC mtg with JBNA. If the existing zone is looked at as the base line, the change would be an incentive. Any further changes would have to go back to JBNA (CALUC).

Yes, will send out notices to those who have indicated they want to have updates.

C – the bylaw wording should have been presented tonight so that we would know precisely what is being proposed.

Q – if school demolished what could be built now under existing zoning?

A – one duplex and 1 single residence with suite

Q – if zoning goes through, would the developer have to come back to JBNA if building is demolished after rezoning

A – Bonus density (incentive) would only apply if building remains.

Q – if there is a rezoning, will city guaranteed come here first as a CALUC process if there are any variances proposed?

A – there is no requirement now but understand the point

C/Q – thanks city for coming, the building is worth keeping and appreciates the creativity being proposed by the city. Are there any examples where this has been done elsewhere in the city?

A – hesitant to reference any other as it is site specific and unique, needs to think carefully before providing any examples. Believes there are some opportunities here. Once there are conditions, it is up to developer to come up with some ideas. Because there was a desire to keep the heritage property without plans for its replacement, this application was put on hold.

Q – delay of 5 months, when does it expire?

A – March 15<sup>th</sup>

Q – If City/Diocese don't come to a agreement, can owner demolish?

A – its possible

Q – can March 15<sup>th</sup> date be extended?

A – only with agreement with owner, city council has given direction to expedite matter, want a decision by March 15<sup>th</sup> deadline

Q – Is there a mortgage on property?

A – it is unencumbered

C – As a Niagara, resident 10 yrs, yellow highlight area (on slide) seen from my kitchen. thank city for efforts and maybe I will move into the building.



A – question is, how badly do you (residents/City) want to preserve the green space and building. If a development proposal doesn't make grade believes the project won't be supported by city and won't go forward.

C – will the costs of saving the façade outweigh the demolition of the building?

C – if façade saved earthquake upgrade would be expected

C – the proposal as presented tonight is really one whereby residents are being asked to "Trust" the City.

Q – Govt St res – if rezoning approved can city get commitment from owner that demolition won't go ahead? Can City request/suggest that the church agree to another "no demolition extension" if zoning is passed, say about 1 year to show good faith?

A – the rezoning would be tied to saving of the building

Q/C Niagara res: appreciate fine line, preserving heritage concern. How will density impact homes nearby? We need to know what the plans will be.

Q/C Niagara – most concern about the density. Is there a risk they could still demolish

A – always a risk the owner can demolish

Q – will higher density still be in place

A – Yes

C – MG - Thanked Murray for presentation. Commits to providing Murray with a list of those who expressed an interest in being kept informed of changes to the file by providing e-mail wrote addresses for that purpose and asked Murray to keep them posted as to changes, City council meeting, PLUSC, etc.

A – will send to those listed on email list

Q – Want a pdf on Murray's presentation tonight

A – MG responded - Since slide presentation is on JBNA computer, will commit to sending out slides as resident interested party list is confirmed. Murray committed to sending the Heritage significance document to those on list (*note: 3-page handout had most of slide presentation and heritage significance information on it*).

C – TC understood that when DRC met with you (City) about this project that the developer would come back the JBNA. That is not what is being stated tonight and I would never have supported this had I known that.