



## Planning and Land Use Committee Report

For the meeting of October 16, 2014

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**To:** Planning and Land Use Committee **Date:** October 2, 2014  
**From:** Mike Wilson, Senior Planner – Urban Design  
**Subject:** Development Permit with Variances Application #000349 for 840 Fort Street

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### Executive Summary

The purpose of this report is to present Council with information, analysis and recommendations regarding an application for a Development Permit with Variances for the property located at 840 Fort Street. The applicant proposes the construction of a six-storey residential addition to the rear of an existing two-storey commercial building. The majority of the existing building would be converted to residential space. However, a 47.5 m<sup>2</sup> retail unit would be provided at grade fronting Fort Street. The remainder of the Fort Street frontage would be occupied by a large residential lobby area.

The applicant proposes an amendment to a Housing Agreement Bylaw that would require all units as market-rental units in perpetuity instead of the existing agreement which only prohibits the strata corporation from enacting any rental restrictions. The applicant further proposes to discharge a covenant relating to the provision of Car Share shares that was registered in favour of the City in 2010.

The key issues with this Application are the proposed variances from the *Zoning Regulation Bylaw* and consistency with the applicable design guidelines. Staff are concerned with the orientation of the residential units and the proposal to locate residential units on the ground floor. The applicant has not sufficiently addressed the livability issues, including access to natural light, that are a direct result of inconsistency with the applicable guidelines and proposed variances from the *Zoning Regulation Bylaw*. The applicant has endeavored to address the livability concerns that result from the proposed variances and inconsistency with design guidelines through the provision of "solatubes" that are proposed on the building's exterior. "Solatubes" are a product that transfers natural light through a reflective tube. In order to ensure these issues are addressed, staff recommend that Council support this Application with certain conditions.

### Recommendations

That Development Permit with Variances Application #000349 for 840 Fort Street proceed to a Hearing, in accordance with plans date stamped August 6, 2014, subject to:

1. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:

- a. Section 6.55.1(k) - Variance to permit residential use on the first floor;
  - b. Section 6.55.2(1) - Building access from street frontage relaxed from 25% to 55%;
  - c. Section 6.55.2(2) - Building frontage reduced from 75% to 45%;
  - d. Section 6.77.2 - Rear yard setback reduced from 2.5 m for building below 7.0 m in height to 0.0 m and reduced from 7.2 m for buildings above 7.0 m in height to 0.00 m.
2. The preparation of an amendment to Housing Agreement Bylaw #10-005 in order to restrict the tenure of the proposed residential units to rental housing in perpetuity, to the satisfaction of the City Solicitor and Director of Sustainable Planning and Community Development.
  3. That Council authorize the Corporate Administrator and City Solicitor to discharge the existing S.219 Covenant relating to the provision of Car Share Memberships.
  4. Referral to the Advisory Design Panel with Council recommended design revisions including:
    - a. Revisions to the design of the retail unit to provide greater frontage on Fort Street;
    - b. The provision of a common outdoor amenity space for use by residents;
    - c. The provision of higher quality materials within the new addition to improve the relationship of the proposed addition to the existing building;
    - d. Revisions to the windows on the north elevation in order to allow natural light to penetrate into the residential units but to obscure views outward from the units.

And that the Panel be asked to focus on:

- e. The quality of the proposed exterior finishes and their appropriateness given the immediate context;
  - f. The proposed design and finish of the building addition in response to the existing Sawyer Building;
  - g. The livability of the proposed residential units at grade.
5. Final plans to be in accordance with the plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development.

Respectfully submitted,



Mike Wilson  
Senior Planner, Urban Design  
Development Services



Deb Day, Director  
Sustainable Planning and Community  
Development Department

Report accepted and recommended by the City Manager: \_\_\_\_\_



Jason Johnson

Date: \_\_\_\_\_

October 9, 2014

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## 1.0 Purpose

The purpose of this report is to present Council with information, analysis and recommendations regarding an application for a Development Permit with Variances at 840 Fort Street.

## 2.0 Background

### 2.1 Description of Proposal

The applicant proposes the construction of a six-storey residential addition to the rear of an existing two-storey commercial building. A retail unit, which is proposed at 47.5 m<sup>2</sup> in size, is provided at grade fronting Fort Street. The remainder of the Fort Street frontage is occupied by a large residential lobby area.

The applicant proposes an amendment to the existing Housing Agreement Bylaw that would require all units to be market-rental units in perpetuity instead of the current requirements which only prohibit the strata corporation from enacting any rental restrictions. The applicant further proposes to discharge a covenant relating to the provision of Car Share shares that was registered in favour of the City in 2010.

### 2.2 Sustainability Features

The applicant proposes the retention of the existing Sawyer Building on the site.

### 2.3 Existing Site Development and Development Potential

The existing site contains the Sawyer Building which was built in 1911. There is a legal agreement registered on title which protects the building from demolition. The existing CA-66 Zone, Harris Green (840 Fort Street) District, would allow a commercial/residential mixed-use building provided the ground floor is not used for residential purposes.

### 2.4 Data Table

The following data table compares the proposal with the CA-66 Zone. An asterisk is used to identify where the proposal is less stringent than the existing zone.

Zoning Criteria	Proposal	Zone Standard
Site area (m <sup>2</sup> ) – maximum	625.2	630
Total floor area (m <sup>2</sup> ) – maximum	2314	2314
Density (Floor Space Ratio) –maximum	3.7:1	3.7:1
Height (m) – maximum	21.5	21.5
Site coverage (%) – maximum	84	86

Zoning Criteria	Proposal	Zone Standard
Building frontage (%) – minimum	45*	75
Building access (%) – maximum	55*	25
Storeys – maximum	6	6
Setbacks (m) – minimum		
North (rear)	0*	2.5 m – below 7 m height 7.2 m – above 7 m height
South (front)	0	0
East (east)	0	0
West (west)	0	0
Parking – minimum	0	0
Visitor parking – minimum	0	0
Bicycle storage – minimum	59	59
Bicycle rack – minimum	6	6

## 2.5 Land Use Context

The subject property is located in the Core Business District on a Primary Commercial Street. Land uses in the surrounding area include multiple dwellings, retail and office spaces.

## 2.6 Legal Description

Lot 290, Victoria City, except the southerly 8 feet thereof.

## 2.7 Relevant History

The existing building was constructed in 1911 and has been vacant for several years. While it has heritage character, it is not listed on the Heritage Register or Heritage Designated; however there is a legal agreement in place protecting it from demolition.

## 2.8 Consistency with Design Guidelines

The applicable design guidelines for the site are contained in the *Downtown Core Area Plan*, 2011. This Application presents several inconsistencies with the applicable guidelines which are discussed in Section 4.0 of this report.



## **2.9 Community Consultation**

In compliance with the *Community Association Land Use Committee (CALUC) Procedures for Processing Variances*, this Application was referred to the Downtown Residents Association on August 11, 2014 for a 30-day comment period. No comments were received at the time of writing this report.

In accordance with the City's *Land Use Procedures Bylaw* because this Development Permit Application has variances; therefore, it requires notification, sign posting and a Hearing.

## **3.0 Issues**

The main issues associated with this Development Permit Application are:

- variance to permit rear yard setback reduction
- side yard setbacks
- variance to permit ground floor residential
- building finishes
- interior finishes
- on-site open space
- interior unit finishes
- housing agreement
- car share covenant.

## **4.0 Analysis**

### **4.1 Variance to Permit Rear Yard Setback Reduction**

The applicant proposes to reduce the rear yard setback requirements. The current setback requirement is to provide a 2.5 m setback from the property line where the building is below 7 m in height and a 7.2 m setback from the property line for all portions of the building above 7 m in height. The applicant proposes a 0 m setback from the rear property line for the entire height of the building.

The proposed design of this rear elevation presents a large blank firewall toward the neighbouring surface parking lot, so this wall would also be visible from View Street. Staff recommended providing a more significant rear yard setback, however, the applicant has not revised this aspect of the proposal. The applicant's letter states that the rear yard setback has been changed in order to facilitate the revised unit orientation. Units are now oriented toward the east and west rather than north and south. The applicant further states that increased side yard setbacks have been provided to facilitate this revised design so the rear yard setback has been eliminated.

The neighbouring property is occupied by a parking garage structure and surface parking area; the current zone for this neighbouring site requires a 6 m setback from the lot line. The *Downtown Core Area Plan* guidelines do not require a rear yard setback for building podiums up to 30 m in height. Therefore, if this site were also redeveloped, it could also present a large blank wall to the proposed development. The applicant for the subject site has proposed windows on the rear elevation that are set back from the property line to satisfy the Building

Code requirement. Staff recommend that the north-facing windows utilize obscured glazing in order to minimize any future loss of views to residents of the subject site in the event that the adjacent property to the rear is redeveloped.

## 4.2 Side Yard Setbacks

The *Downtown Core Area Plan* provides guidelines with regard to minimum clearances from both the building wall and balconies to the side yard property lines. For buildings under 30 m in height, a minimum 3 m setback is recommended and where feasible, additional clearances for windows should be encouraged to enhance livability for residential uses. The guidelines further recommend an additional 0.5 m clearance to balconies (3.5 m total). The intent of the guidelines is to open up views between buildings and permit access to light and views of the sky.

The applicant proposes to meet the minimum recommended setback to the building face (3 m) and proposes a 2.5 m setback to balconies on the second floor. As a result, the shadow study provided indicates that the proposed residential units on the lower floors receive little access to direct sunlight.

To address this, the applicant proposes the installation of “solatubes”, which would be mounted to the building’s exterior and reflect light into the recessed areas between buildings. “Solatubes” are typically used inside buildings to bring natural light into spaces such as warehouses or buildings with deep floor plates (please see Figure 1). The applicant has informed staff that this would be the first exterior application of its kind. The applicant has not provided sufficient evidence for staff to support the use of solatubes in this manner. Staff recommend the provision of an Engineer’s report or letter from the manufacturer to determine whether or not the application of this product in this manner would be successful in addressing the lack of direct sunlight to the lower level units. If additional information cannot be provided, it is recommended that the “solatubes” be removed in order to minimize the amount of building that protrudes into the side yard setback.



Figure 1: A roof cross-section showing the traditional application of a “solatube” to bring light into a building.



### **4.3 Variance to Permit Ground Floor Residential**

The subject lands are located with the Central Business District (CBD) and policies in the DCAP support active commercial street-level uses in this area. The applicant proposes a small, 47.5 m<sup>2</sup> commercial retail unit adjacent to a large lobby entrance. The size of the proposed retail unit is limited because the applicant proposes all wood-frame construction which limits the size of the commercial space to 10% of the ground floor.

Staff recommend that the Committee support this variance to allow residential on the ground floor subject to the applicant redesigning the retail unit and lobby space so that there is a more significant active retail frontage facing Fort Street.

### **4.4 Exterior Finishes**

The applicant proposes the renovation of the existing Sawyer Building and a significant residential addition. The proposed exterior finishes of the addition are predominantly cement board panels with matching aluminum reveals. The project may benefit from further variation in the palette of materials and the introduction of higher quality materials. This would increase the Application's consistency with the applicable design guidelines while also improving the relationship between the existing Sawyer Building and the proposed addition. If the Committee is supportive of this Application, staff recommend that these revisions be completed and that this Application be referred to the Advisory Design Panel for their input.

### **4.5 On-site Open Space**

The applicable design guidelines within the *Downtown Core Area Plan*, 2011 recommend the provision of on-site open space such as courtyards, forecourts, plazas, patios, gardens, roof top patios/gardens for high density residential and commercial buildings. Only 18 of the proposed 59 units have direct access to private outdoor open space. Staff have explored with the applicant the provision of a private outdoor rooftop patio space for residents; however, the applicant has stated that this would be too costly and difficult to manage. In this instance, open-site space for residents could be added in the form of a common roof-top patio or exterior unit balconies.

Given the number of units proposed and the lack of open site space, staff recommend that Council require the provision of increased outdoor open-site space for use by residents.

### **4.6 Interior unit finishes**

This Application includes references to interior finishes of units, including increased storage and Murphy beds. It should be noted that this does not form part of the Development Permit approval and would not be regulated by the City.

### **4.7 Housing Agreement**

There is an existing Housing Agreement Bylaw for this property that restricts any future strata corporation from enacting any rules or regulations that would restrict the rental of units to non-owners. The applicant proposes a bylaw amendment to restrict the tenure of the units to rental housing in perpetuity. If the Committee is supportive of this Application, it is recommended that staff be directed to prepare an amendment to the Housing Agreement for Council's consideration.

#### **4.8 Car Share Covenant**

When the site was rezoned in 2010, a legal agreement was registered on title that was intended to secure the applicant's offer to provide 24 shares in the Victoria Car Share Co-op to residents within the development. The previous zone did not include a parking requirement; however the applicant offered to provide the memberships. During the registration process of the covenant, it was rejected by the Land Titles Office, therefore, the car share memberships could not be secured. The revised covenant only secures the construction of the lands for a mixed use commercial and residential development with up to 24 dwelling units. The applicant has requested that this covenant be discharged and, given that no parking variance is required to facilitate this proposal, staff recommend that Council support this request. However, it should be noted that the requested variances result in the ability to re-orient the units to an east/west layout which allows for a significant increase in the number of units. If the Committee is supportive of this Application, it is recommended that Council authorize that this covenant be discharged.

#### **5.0 Resource Impacts**

There are no resource impacts anticipated with this Application.

#### **6.0 Conclusions**

The Application to retain the existing Sawyer Building and to construct a new six-storey addition is somewhat consistent with the applicable design guidelines. The proposal would benefit from further design development and staff recommend that Council require several design changes to improve the proposal's consistency with the applicable design guidelines and to mitigate the impact of the proposed variances. The proposal would also benefit from review by the Advisory Design Panel. Staff recommend that Council support this Application with conditions noted in the recommendation.

#### **7.0 Recommendations**

##### **7.1 Staff Recommendations**

That Development Permit with Variances Application #000349 for 840 Fort Street proceed to a Hearing, in accordance with plans date stamped August 6, 2014, subject to:

1. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
  - a. Section 6.55.1(k) - Variance to permit residential use on the first floor;
  - b. Section 6.55.2(1) - Building access from street frontage relaxed from 25% to 55%;
  - c. Section 6.55.2(2) - Building frontage reduced from 75% to 45%;
  - d. Section 6.77.2 - Rear yard setback reduced from 2.5 m for building below 7.0 m in height to 0.0 m and reduced from 7.2 m for buildings above 7.0 m in height to 0.00 m.



2. The preparation of an amendment to Housing Agreement Bylaw #10-005 in order to restrict the tenure of the proposed residential units to rental housing in perpetuity, to the satisfaction of the City Solicitor and Director of Sustainable Planning and Community Development.
3. That Council authorize the Corporate Administrator and City Solicitor to discharge the existing S.219 Covenant relating to the provision of Car Share Memberships.
4. Referral to the Advisory Design Panel with Council recommended design revisions including:
  - a. Revisions to the design of the retail unit to provide greater frontage on Fort Street;
  - b. The provision of a common outdoor amenity space for use by residents;
  - c. The provision of higher quality materials within the new addition to improve the relationship of the proposed addition to the existing building;
  - d. Revisions to the windows on the north elevation in order to allow natural light to penetrate into the residential units but to obscure views outward from the units.

And that the Panel be asked to focus on:

- e. The quality of the proposed exterior finishes and their appropriateness given the immediate context;
- f. The proposed design and finish of the building addition in response to the existing Sawyer Building;
- g. The livability of the proposed residential units at grade.
5. Final plans to be in accordance with the plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development.

## **7.2 Alternate Recommendation (Approve as Presented)**

That Development Permit with Variances Application #000349 for 840 Fort Street proceed to a Hearing, in accordance with plans date stamped August 6, 2014, subject to:

1. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
  - a. Section 6.55.1(k) - Variance to permit residential use on the first floor;
  - b. Section 6.55.2(1) - Building access from street frontage relaxed from 25% to 55%;
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2. The preparation of an amendment to Housing Agreement Bylaw #10-005 in order to restrict the tenure of the proposed residential units to rental housing in perpetuity, to the satisfaction of the City Solicitor and Director of Sustainable Planning and Community Development.

3. That Council authorize the Corporate Administrator and City Solicitor to discharge the existing S.219 Covenant relating to the provision of Car Share Memberships.
4. Final plans to be in accordance with the plans identified above to the satisfaction of the Director of Sustainable Planning and Community Development.

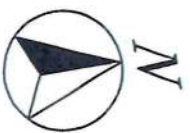
### **7.3 Alternate Recommendation (Decline)**

That Development Permit with Variances #000349 for 840 Fort Street be declined.

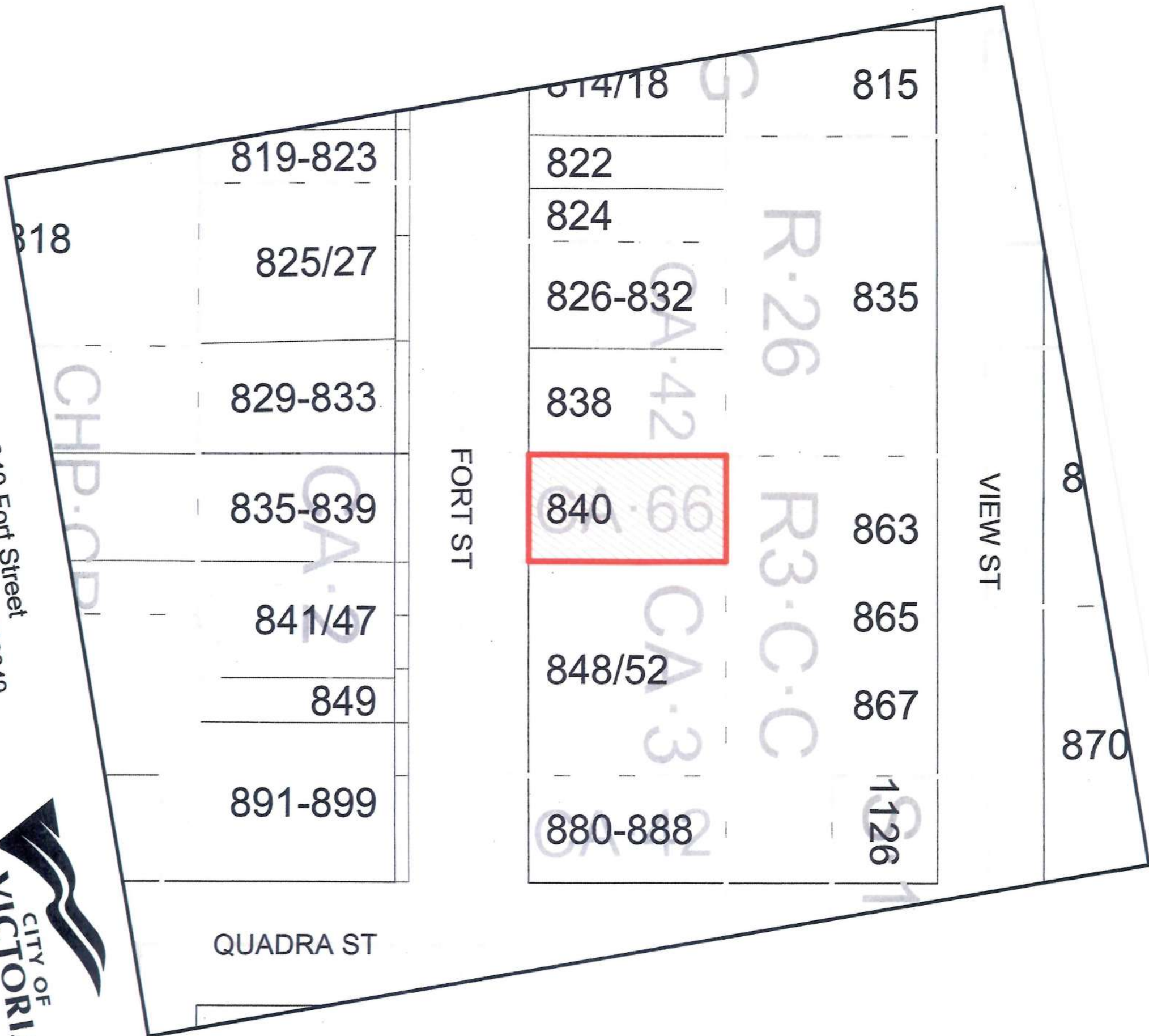
### **8.0 List of Attachments**

- Zoning map
- Aerial map
- Letter from applicant date stamped August 6, 2010
- Plans dated August 6, 2014
- S.219 Covenant – Car Share Agreement
- Housing Agreement Bylaw No.10-005.





840 Fort Street  
Development Permit #000349







840 Fort Street  
Development Permit #000349







The residential addition proposed for the rear of the lot expresses a more contemporary architectural feel which is well-suited to its mid-rise form. This portion of the development maintains a generous setback from Fort St. - as originally requested by Council - in order to avoid the sense of the addition crowding the existing structure on the lot.

While the proposed setback to the neighbouring parkade structure at the rear (north) property line has been reduced, setbacks have been increased from zero lot-line to 3m along the east and west property lines, allowing greater separation of proposed living units from neighbouring commercial structures and providing opportunities for outdoor experiences for all ground level suites. As compared to the previous proposal which offered north-south window opportunities only, the current proposal maximizes exposure and overlooks to the east, west, and south.

#### **Variances**

This Development Permit application conforms to all aspects of the existing CA-66 zoning by-law with three exceptions:

1. Ground Floor Residential: We have removed the commercial use previously approved at the rear (north) of the property and have replaced this with additional residential units. We are however proposing a 100% retail solution for the entire Fort St. frontage. Smaller commercial spaces such as this one have proven to be successful in the Victoria marketplace and the feedback received to date on this revised space has been significantly more positive from our target market.
2. Rear Yard Setback: The rear setback from the parking structure to the north has been reduced to zero lot-line; residential units have been re-configured to offer east-west exposure instead, and these respective setbacks have been increased in response.
3. Building Frontage: The existing two-storey brick building - as it stands today - is non-conforming with zoning frontage requirements. Due to our retention of this structure as the frontage of the development - as well as the addition of necessary points of access and egress to conform with modern code requirements - it is not possible for the building to meet the specific commercial frontage requirements outlined in the zoning by-law.



### **Neighbourhood**

The 800-block of Fort St. has over the past several years been relatively static from the perspective of development. Challenging economic conditions have resulted in increased retail and commercial vacancies along the block. Residential redevelopment opportunities like the one before you today appear to a large extent to have been hindered by market conditions which have created challenges for residential purchasers.

As a result, the context of the building - in its mid-block location amongst three- and four-storey commercial neighbours along the north side of Fort St. between Blanshard and Quadra Streets - has remained largely unchanged since the previous Development Permit was issued.

The proposed commercial storefront will serve to support and enhance the accessible, appealing retail and commercial services 'window-shopping' experience which has been under pressure along this block over recent years.

Meanwhile, additional density in the form of modest, attainable rental housing offered by this building will contribute to the eclectic blend of urban living spaces in this part of downtown. Direct-to-Fort St. access and egress will provide an instant, visible, and significant contribution to the vibrant and pedestrian-friendly atmosphere along this part of Fort St.

### **Design & DP Guidelines**

In consideration of previous community and Council input which informed the recently lapsed Development Permit, the Developer has maintained a generally similar expression with regard to the exterior character of the existing structure.

As compared to the previous proposal the six-storey addition has been elongated in length toward the rear (north) of the property, and has been reduced by approximately 6m in breadth (east-west) to provide outdoor space and landscaping for ground-level units as well as enhanced exposure to the east, west, and south for upper floor units.

The Developer is proposing a reconfiguration of the internal layout of the building to reduce the proposed Commercial floor area and to correspondingly increase the residential floor area. Overall project density remains within zoning by-law guidance, but the residential unit count increases to 58 rental suites along with a live-in manager's residence for a total of 59 new rental units.

By reorienting units away from a solely north-south exposure, east and west elevations gain significant visual interest and articulation as compared to their previous somewhat utilitarian expression as fire-walls. In general, the great majority of the easily visible exterior of the new six-storey structure exhibits enhanced use of colour, texture, as well as a more varied array of exterior material types.

The north elevation of the building - which must be a fire-rated wall - is left as a single plane free of articulation and variation in colour. From a design point of view it is felt that a lighter shade of colour in this area would serve to unduly emphasize what must be a blank wall from a building code perspective. This elevation of the building is only really visible via a relatively narrow, through-block window between two mid-rise towers on View St., and is set back half a block from pedestrian or vehicular viewpoints along this street.

In order to provide as much natural light as is possible to the first and second floor units the Developer is proposing the use of an innovative system of collectors and reflectors to gather and focus sunlight along the East and West building exterior spaces.

In addition to these efforts, the design team has raised ceiling heights in this part of the building to allow for the addition of transom windows above the units' sliding glass balcony doors, again as a means of increasing ambient light levels for occupants.

Attention to the matter of light levels has extended all the way down to a reduction of the width of each individual window mullion proposed for these units, and the Developer is confident that comprehensive nature of this lighting review has resulted in a proposal which will create very liveable and enjoyable living spaces for new downtown residents.

### **Transportation**

This development is located in an area of the City where many opportunities for work and recreation are located within convenient walking distance. City of Victoria by-law requirements do not require off-street vehicle parking, and there is none proposed for this site, however bicycle storage and convenient access to same is provided.

This design outcome also contemplates the conversion of the existing driveway access at the West side of the property into a pedestrian access corridor. Given that this conversion frees up a generous amount of frontage along Fort St. the Developer is proposing to develop this space into a free bicycle parking facility for use by building residents and the general public alike.

The Developer has already registered a Victoria Car-Share Co-Op agreement on title, however the covenant makes specific reference to development details of a previous application and as such do not apply directly to this proposal - further conversation on this matter will be required with Staff and Council.



### **Green Features<sup>1</sup>**

The Developer considers the retention of the existing Commercial structure on the site - and all that it entails - the most significant green feature of this urban in-fill project.

The Developer has always felt that the existing Commercial structure on the site ought to remain in situ in order to create a sense of visual consistency on the block, but more importantly to save and reuse the vast majority of the raw materials, resources, and embodied energy and emissions that went in to creating and maintaining this structure over the years.

As Council is aware, the seismic protection and building system upgrades required to bring a 100 year old building into compliance with current building codes are very expensive, but in the Developer's opinion the work required to protect and extend the life cycle of this building is very worthwhile indeed.

By means of creative engineering and architecture, as well the co-operation of Council with respect to the variances required to allow its retention, the Developer anticipates the successful re-purposing and re-development of this land and building will serve to suit the needs of Victoria residents for years to come.

### **Heritage**

While the existing structure has never been a designated or registered heritage building, the Developer's successful 2010 Development Permit application for the site recognized the 100 year history of the existing building and its positive contribution to the well established Fort St. streetscape.

Conservation of the original 1911 "Sawyer Building" was always forefront in the Developer's plans, and further to investing in a significant preliminary seismic upgrade of the structure in the mid-2000's the Developer registered a covenant on title prohibiting the demolition of the building.

This Development Permit application maintains that original commitment to the retention of the original structure, and the building and facade treatments in fact remain very similar to those contemplated in the 2010 Development Permit.

### **Infrastructure**

Reviews of this proposal with authorities having jurisdiction over site services reveal that local infrastructure is sufficient to support the re-development of this site. The sewer load review report - pending the successful outcome of this application - will be modified to allow for the revised balance between commercial and residential uses within the building, and the specifications for the storage tanks required for effluent storage and non-peak hour discharge will be updated.


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<sup>1</sup>Additional Green Indicator comments are appended, below.

The Developer feels that this revised Development Proposal represents a design outcome that will be much more appealing to today's marketplace and which - by providing purpose-built rental housing - will contribute over the long term to the diversity of Victoria downtown core housing mix and land-uses.

Questions and comments are welcomed, and should you require additional information on the above in order to complete your review please do not hesitate to contact the undersigned directly.

Sincerely,

  
\_\_\_\_\_  
Jack Julseth  
Three Point Properties Ltd.

  
\_\_\_\_\_  
Ian Laing  
Ian Laing Properties Ltd.