



Committee of the Whole Report

For the Meeting of January 25, 2018

To: Committee of the Whole **Date:** January 12, 2018

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

Subject: Development Variance Permit No. 00186 for 1322 Rockland Avenue

RECOMMENDATION

That Council decline Development Variance Permit Application No. 00186 for the property located at 1322 Rockland Avenue.

LEGISLATIVE AUTHORITY

In accordance with Section 498 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 property located at 1322 Rockland Avenue. The proposal is to subdivide the lot into two lots to create one vacant lot while retaining the existing heritage protected building on the other lot. There is no development proposed for the vacant lot with this application. The variance is related to a reduced east setback for the existing building from the Royal Terrace property boundary.

The following points were considered in assessing this application:

- the proposal is inconsistent with the *Official Community Plan 2012 (OCP)*, which encourages maintenance of large lot character and conservation of historic architectural and landscape character in the Rockland neighbourhood
- the proposal is inconsistent with the *Rockland Neighbourhood Plan* with regards to maintaining the estate lot character and retaining public views to heritage buildings
- the proposed driveway access onto Royal Terrace may impact a large bylaw protected Garry Oak tree
- the existing building is on the City's heritage registry and protected under a heritage covenant registered on title
- a portion of the heritage building (the historic coach house) is non-conforming with regards to its setback from Royal Terrace. Road dedication along Royal Terrace would increase the non-conformity and a portion of the building would encroach into the road Right-of-Way. An encroachment agreement would be required at the time of subdivision.

BACKGROUND

Description of Proposal

The proposal is to subdivide the 8365.6m² lot to create one vacant lot (4727m²) while retaining the heritage protected building on the other lot (3205m²). There is no development associated with this application; however, the proposed subdivision triggers setback variances for the existing building.

Specific details include:

- the proposal includes road dedication along both Rockland Avenue and Royal Terrace. The road dedication along Royal Terrace triggers an east setback variance for the existing building on proposed Lot 1
- the proposed lot line between Lots 1 and 2 triggers a south setback variance for the existing building
- a second vehicle access onto Royal Terrace is proposed to provide access to existing parking stalls on the south side of the building. The location of the driveway may impact a bylaw protected Garry Oak tree.
- the OCP identifies the Pemberton Trail crossing the subject property connecting Royal Terrace and Rockland Avenue. The applicant proposes a 3.0m Statutory Right-of-Way (SRW) across both lots for the provision of a future public pathway.

Sustainability Features

The applicant has not identified any sustainability features associated with this proposal.

Active Transportation Impacts

The applicant has not identified any active transportation impacts associated with this application.

Public Realm Improvements

No public realm improvements are proposed in association with this Development Variance Permit application.

Accessibility Impact Statement

The British Columbia Building Code regulates accessibility as it pertains to buildings.

Existing Site Development and Development Potential

The site is presently developed with a large heritage protected building which has been converted to 15 boarding rooms, 14 rooming house units and three housekeeping units. The House Conversion regulations under Schedule G of the *Zoning Regulation Bylaw* have since been revised to only permit one type of use in a building that has undergone a conversion; therefore, the current use of the building is considered legal non-conforming.

Under the current R-N-2 Zone, the existing building could be used as a nursing home or converted to approximately 12 self-contained dwelling units. All of the uses permitted in the R1-A Zone, Rockland Single Family Dwelling District, are also permitted in the R-N-2 Zone, therefore, the property could be developed with semi-attached or attached dwellings in addition to the existing building.

Data Table

The following data table compares the proposal with the existing R-N-2 Zone. An asterisk is used to identify where the proposal is less stringent than the existing zone. A double asterisk is used to identify existing non-conformities.

Zoning Criteria	Proposal		Existing Zone R-N-2
	Lot 1	Lot 2 (Vacant)	
Site area (m ²) - minimum	3205.00	4727.00	2800.00
Lot width (m) - minimum	57.00	72.07	24.00
Site coverage % - maximum	26.00	-	40.00
Open site space % - minimum	52.00	-	30.00
Setbacks (m) – minimum:			
North	8.7**	-	18.28
South	14.1*	-	15.24
East	0.00*	-	7.50
West	14.25	-	14.25 (Lot 1 rear yard) 3.00 (Lot 2 side yard)
Parking - minimum	20	-	18

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, on February 14, 2017 the application was referred for a 30-day comment period to the Rockland Neighbourhood Association CALUC. A letter dated March 9, 2017, and an email dated November 26, 2017, are attached to this report. The Rockland Neighbourhood Association has requested a community meeting be required for this application.

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 proposal is inconsistent with the OCP, which encourages maintenance of large lot character and conservation of historic architectural and landscape character in the Rockland neighbourhood.

Rockland Neighbourhood Plan

The Rockland Neighbourhood Plan does not support subdivision of large estate lots, and encourages the retention of views towards heritage buildings. As an alternative to subdivision, the Plan encourages attached dwellings as a form of infill development that allows for sensitive site development that preserves heritage character and maintains public views to heritage buildings. This type of development is permitted in the R1-A Zone, Rockland Single Family Dwelling District as described below. In order to meet the Plan objective of securing public views, the applicant was asked to consider providing a voluntary covenant on the proposed Lot 2 to ensure the view of the heritage building was secured and future development could not encroach into the public view. The applicant has not provided a view corridor covenant with this proposal.

Tree Preservation Bylaw and Urban Forest Master Plan

The proposal includes additional driveway access onto Royal Terrace. The proposed location of the second access is in close proximity to a bylaw protected Garry Oak tree. The applicant has provided an arborist report that outlines mitigation measures to retain the Garry Oak; however, staff have concerns that the tree may not be retained and recommend that additional on-site analysis of the tree and the proposed driveway be completed to better understand the potential impacts to the tree. Alternatively, given the size of the site, there may be other options for providing access that would not impact any bylaw protected trees. To address this issue the appropriate wording has been added to the alternate motion, should Council choose to advance the application to an Opportunity for Public Comment.

There are also several bylaw protected trees located on the proposed Lot 2. Depending on a future development proposal, some of these trees may fall within the building envelope and be proposed for removal. Staff requested the applicant consider providing a voluntary tree protection covenant on Lot 2 to minimize the impact of future development on the mature trees; however, the applicant has not provided a tree protection covenant with this application. An arborist report would be required with any future development application on Lot 2.

Regulatory Considerations

The site is in the R-N-2 Zone, Rockland Residential Nursing Home District, a site specific zone that was established when the building was converted to a nursing home. The R-N-2 Zone allows for all of the uses permitted in the R1-A Zone, Rockland Single Family Dwelling District, which includes semi-attached or attached dwellings (i.e. townhomes). The low density townhomes are intended to be in the rear or side yard of existing mansions to preserve public views of the mansion.

Future development of the proposed Lot 2 could include semi-attached or attached dwellings, which would be subject to the regulations of the R-N-2 Zone with regards to setbacks and height, as well as, all other regulations from the R1-A Zone (e.g. maximum site coverage, parking, site area per unit, etc.). Development of semi-attached or attached dwellings would require a Development Permit under Development Permit Area 15C: Intensive Residential – Rockland. The R1-A Zone requires 835m² of site area for each self-contained dwelling unit; therefore, based on the proposed Lot 2 area, five attached dwellings could be developed on Lot 2 with 25% site coverage.

Alternatively, the site could be developed as a single-family dwelling (with a secondary suite or garden suite) with 40% site coverage. A development permit is not required for a single-family dwelling.

The applicant is requesting variances on the east and south setbacks for proposed Lot 1. The east setback variance is triggered by a 5.6m road dedication along Royal Terrace. With the road dedication, the heritage designated coach house would extend into the road Right-of-Way and an encroachment agreement would be required.

The portion of the building closest to Royal Terrace is non-conforming with regards to the south setback; however, the new proposed lot line between Lots 1 and 2 would trigger a south setback variance for the historic front entrance to the building.

Other Considerations

The proposal includes a Statutory Right-of-Way on both lots to provide for the future development of a portion of the Pemberton Trail. This trail is identified in the City's Greenways Plan and the Official Community Plan as an off-street pedestrian pathway connecting Royal Terrace to Rockland Avenue. Development of the pathway is not part of this application.

CONCLUSIONS

The OCP and Rockland Neighbourhood Plan policies do not support the subdivision of large estate lots, especially where public views of heritage buildings are not secured and a comprehensive site plan for future development is not provided. While staff encourage the provision of an SRW for the Pemberton Trail, the Development Variance Permit application is not considered supportable; therefore, staff recommend that Council decline the application.

ALTERNATE MOTION

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

"That Council authorize the issuance of Development Variance Permit Application No. 00186 for 1322 Rockland, in accordance with:

1. Plans date stamped January 10, 2018.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. reduce east setback from 7.50m to 0.00m for Lot 1
 - ii. reduce the south setback from 15.24m to 14.10m for Lot 1
3. Provision of a tree protection plan for the Bylaw protected Garry Oak (#373) that identifies the location of the tree roots, the location of the proposed driveway in relation to the root system and the driveway construction methodology, or identification of an alternate access that does not impact any bylaw protected trees, to the satisfaction of City staff prior to the Opportunity for Public Comment.
4. The Development Permit lapsing two years from the date of this resolution.


Respectfully submitted,


Alec Johnston
Senior Planner
Development Services Division




Jonathan Tinney, Director
Sustainable Planning and Community
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Report accepted and recommended by the City Manager:


Date: Jan 17, 2018

List of Attachments:

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped January 10, 2017
- Attachment D: Letter from applicant to Mayor and Council dated January 12, 2018
- Attachment E: Community Association Land Use Committee Comments dated March 6, 2017 and November 26, 2017
- Attachment F: Arborist Reports dated November 14, 2017 and January 10, 2018
- Attachment G: Correspondence