



Committee of the Whole Report For the Meeting of April 25, 2024

To: Committee of the Whole **Date:** April 3, 2024
From: Karen Hoese, Director, Sustainable Planning and Community Development
Subject: **Update on Rezoning Application No. 00807 and associated Development Permit with Variances Application No. 00255 and Heritage Designation Application No. 000163 for 515 Foul Bay Road**

RECOMMENDATION

Rezoning Application

1. That Council instruct the Director of Sustainable Planning and Community Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff reports dated October 10, 2023 and April 3, 2024 for 515 Foul Bay Road.
2. That, after publication of notification in accordance with section 467 of the Local Government Act, first, second and third reading of the zoning regulation bylaw amendment be considered by Council.
3. That following the third reading of the zoning amendment bylaw, the applicant prepare and execute legal agreements securing the following, with form satisfactory to the City Solicitor prior to adoption of the bylaw:
 - a. provision of a 1.6m wide statutory right-of-way for highway purposes along the Foul Bay Road frontage, with terms to the satisfaction of the Director of Engineering and Public Works
 - b. provision of a detailed design, supply and installation of a new Rectangular Rapid Flashing Beacon (RRFB) pedestrian crossing of Foul Bay Road at its intersection with Chandler Avenue, including a curb extension at the west side of Foul Bay Road, wheelchair ramps, tactile indicators and all associated infrastructure, to the satisfaction of the Director of Engineering and Public Works
 - c. protection, restoration and maintenance of the existing greenspace with a site area of approximately 1,468 m² in accordance with the plans date stamped by Planning on February 26, 2024, which includes provision of a bee colony in the conservation area for a period of at least two years and ensuring that design and construction in the area follows the recommendations in the February 23, 2024 arborist report from Gye &

- Associates to minimize impacts to trees, to the satisfaction of the Director of Parks, Recreation and Facilities
- d. a minimum of five units in the existing multiple dwelling as rental units for the life of the building as outlined in the report dated April 3, 2024, with contents satisfactory to the Director of Sustainable Planning and Community Development
 - e. provision of no less than one adaptable unit, in accordance with the standards in the British Columbia Building Code and BC's Building Accessibility Handbook, to the satisfaction of the Director of Sustainable Planning and Community Development; and
 - f. provision of transportation demand management measures, to the satisfaction of the Director of Engineering and Public Works, including:
 - i. two over-sized long-term bicycle parking spaces;
 - ii. 50% of required long-term bicycle parking with access to an electrical outlet;
 - iii. bicycle wash and maintenance facility.
4. That adoption of the zoning bylaw amendment will not take place until:
- a. third reading of an associated heritage designation bylaw to designate the property known as 515 Foul Bay Road, as described in the Statement of Significance attached as Attachment F, pursuant to Section 611 of the Local Government Act, to the satisfaction of the Director of Sustainable Planning and Community Development,
 - b. all of the required legal agreements that are registrable in the Land Title Office have been so registered to the satisfaction of the City Solicitor.
5. That the above Recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

Development Permit with Variances Application

That Council, after giving notice, consider the following motion:

- "1. That subject to the adoption of the necessary *Zoning Regulation Bylaw* amendment, Council authorize the issuance of Development Permit with Variances No. 00255 for 515 Foul Bay Road, by plans submitted to the Planning department and date stamped by Planning on February 26, 2024, in accordance with the following:
- a. Subject to submission of revised plans to align architectural site plans and landscape plans, to the satisfaction of the Director of Sustainable Planning and Community Development.
 - b. Subject to the proposed development meeting all City zoning and subdivision and development servicing bylaw requirements, except for the following variances:
 - i. reduce minimum front yard setback from 6.00m to 0.41m
 - ii. reduce minimum side yard setback (north) from 4.00m to 3.08m
 - iii. increase maximum eave projection from 0.75m to 0.79m
 - iv. permit vehicle parking in the front yard
 - v. reduce short-term bicycle storage from 18 spaces to 10 spaces
 - vi. increase maximum drive aisle slope from 8.00% to 11.36%
 - vii. reduce minimum two-way drive aisle width from 6.00m to 4.00m
 - viii. increase maximum accessory building height from 3.50m to 4.00m
 - ix. permit above-ground electrical, telecommunication and cable television services.

- c. That pursuant to section 512(2) of the Local Government Act, Council exempts the existing property at 515 Foul Bay Road as well as the new proposed lot to be created by subdivision, as generally shown in the plans submitted to the Planning department and date stamped by Planning on February 26, 2024 from the minimum frontage requirements of section 512(1) at the time of subdivision.
2. That the Development Permit with Variances, if issued, lapses two years from the date of this resolution.”

Heritage Designation Application No. 000163

That Council:

1. Instruct staff to prepare a heritage designation bylaw to designate the property at 515 Foul Bay Road, that first and second reading of the bylaw be considered by Council and that a Public Hearing date be set.
2. Approve the Statement of Significance for 515 Foul Bay Road attached as Attachment F to this report recognizing the building exterior as the historic features of the property.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with an update regarding a Rezoning and Development Permit with Variances application for the property located at 515 Foul Bay Road. The proposal is to rezone from the R1-G Zone, Gonzales Single Family Dwelling District, to a new site-specific zone to permit three ground-oriented multiple dwelling buildings on one lot and retention of an existing five-unit heritage-registered house conversion on a separate lot with a shared panhandle driveway.

There is a concurrent Development Permit with Variances application pertaining to the proposed form, character, exterior design, finishes and landscaping, as well as variances related to setbacks and parking specifications for the three new three-storey ground-oriented multiple dwelling buildings containing a total of 12 dwelling units.

A Council motion on December 7, 2023, directed staff to work with the applicant to negotiate a stronger heritage response and more certain rental housing tenure. The revised proposal provides a supportable level of heritage and rental protection while accommodating the applicant’s request for flexibility to avoid exposure to uninsured costs.

The following points were considered in assessing the revised proposal:

- In response to concerns with the applicant’s initial request to place limitations on the standard heritage designation bylaw that would permit demolition in specific circumstances, the applicant has committed to heritage designation of the heritage building without limitations, consistent with the standard approach to heritage designation.
- As an alternative to limiting the heritage designation bylaw, the applicant is proposing similar provisions in the housing agreement securing retention of the five existing rental units. Specifically, the owner will be permitted to apply to stratify the heritage building in cases where the building is damaged as a result of an event that is outside of the owner’s control, and where the damages to the building result in uninsured repairs or upgrades.

- The limitation on the protection of the five rental units could result in the loss of five rental units in the future; however, the combined level of protection provided through heritage designation bylaw and legal agreement to secure the rental units is significantly stronger than what was previously proposed and, therefore, considered supportable.
- The applicant has also submitted revised plans to address conditions contained in the original recommendation to Council, most notably including removal of two vehicle parking spaces in the front yard.

BACKGROUND

Description of Proposal

This proposal is to rezone from the R1-G Zone, Gonzales Single Family Dwelling District to a new site-specific zone and to subdivide the lot into two lots in order to allow for ground-oriented multiple dwellings on a new panhandle lot, with retention of an existing five-unit house conversion on another lot that would share the panhandle driveway. The associated Development Permit with Variances Application is for three new three-storey buildings containing a total of 12 dwelling units, in addition to an existing five-unit heritage registered house conversion. Additional proposed accessory structures include a “children’s forest house” and a bicycle parking structure located near the heritage building.

A full description of the proposal is contained in the attached report that was presented to Committee of the Whole (COTW) on November 15, 2023 (report dated October 10, 2023). On December 7, 2023, Council referred the application back to staff with the following direction:

“That Council refers this matter to staff to negotiate a stronger heritage response and more certain rental housing tenure.”

This report provides an overview of the revisions made to the proposal in order to respond to this Council direction and to satisfy conditions contained in the original recommendation to Council.

Revised Proposal

Heritage Designation

At the time of application, the applicant expressed concerns with offering heritage designation unless provisions could be added to the designation bylaw that would permit demolition of the building in specific circumstances. The applicant is now proposing to designate the building without special provisions to permit demolition as previously requested, which will provide greater assurance that the heritage asset will be preserved. The proposed designation is now consistent with the standard approach to heritage designation.

Retention of Existing Rental Units

The applicant is requesting new provisions be added to the legal agreement to retain the existing rental units for the life of the building unless damages to the building occur due to a fire, flood or similar event that is outside of the owner’s control. In such cases, the legal agreement would allow for the owner to stratify the building, subject to approval by the City’s Approving Officer. The limited protection of the rental units is considered supportable given the commitment to heritage

designation, which in turn extends the term of the rental agreement from the previously proposed 20 years to the life of the building.

Plan Revisions

Several plan revisions have been made to address conditions contained in the original recommendation to Council, including:

- two parking spaces removed from the front yard near the driveway crossing
- parking surface material changes from permeable pavers to permeable asphalt
- accessible parking relocated and accessible path added leading to the adaptable unit located in the rear of Block 3 (Unit 303)
- proposed replacement trees revised to comply with the siting and soil volume requirements
- one proposed Garry Oak replacement tree relocated to an area previously used for parking.

Revised Tree Impacts and Planting

Based on the updated proposal, no additional impacts are expected to the existing trees or proposed replacement trees, beyond those identified in the staff report dated October 10, 2023.

The removal of two proposed parking spaces on the north side of the driveway may provide an improved planting location for at least one proposed replacement tree.

VARIANCE TO SUBDIVISION AND DEVELOPMENT SERVICING BYLAW

Section 22 (1) of the *Subdivision and Development Servicing Bylaw* requires that underground electrical, telecommunication and cable television services be provided through an underground conduit. However, site features that include rock outcroppings near the existing driveway pose challenges for underground installation and would necessitate blasting that could negatively impact the heritage building and the proposed environmentally protected area and would impact the access to the existing home and tenants, including emergency access. Therefore, a variance to allow for an overhead service connection is supportable to avoid these potential negative impacts. The recommended motion includes consideration of this variance.

EXEMPTION FROM SUBDIVISION AND DEVELOPMENT SERVICING BYLAW

Section 512 of the *Local Government Act* requires that a parcel being created through subdivision, which fronts on a highway, must have a minimum frontage of at least ten percent of the perimeter of the lot, even if the local government permits less than this minimum through a Development Variance Permit to or a site-specific Rezoning of the *Zoning Regulation Bylaw*. However, the provincial legislation enables Council to exempt a parcel from this minimum requirement as part of consideration of a land use application. The recommended includes consideration of this required exemption.

CONCLUSIONS

The applicant is now proceeding with heritage designation without previously requested limitations on the level of protection. The more limited commitment to retain the rental units could result in the loss of rental housing in the future; however, on balance, the combined level of protection addresses Council direction and is considered supportable. Further, the applicant has made revisions to the

site layout to improve consistency with applicable design guidelines. Therefore, it is recommended that Council consider proceeding as outlined in the recommendation.

ALTERNATE MOTION

That Council decline Rezoning Application No. 00807 for the property located at 515 Foul Bay Road.

Respectfully submitted,

Patrick Carroll
Senior Planner
Development Services Division

Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: November 16, 2023 Committee of the Whole report
- Attachment B: December 7, 2023 Council update report
- Attachment C: November 16, 2023 Committee of the Whole Meeting minutes
- Attachment D: December 7, 2023 Council meeting minutes
- Attachment E: Plans date stamped February 26, 2024
- Attachment F: Statement of Significance
- Attachment G: Correspondence