

REPORT

Planning and Development

To: Mayor Johnstone and Members of Council
From: Jackie Teed, Director
Planning and Development
Date: July 7, 2025
File: #2711915
RZ000263
Item #: 2025-211
Subject: Rezoning Application: 912 Queens Avenue and 129-137 Tenth Street – Application Considerations

RECOMMENDATION

1. *THAT the rezoning application at 912 Queens Avenue and 129-137 Tenth Street be rejected, given that the application:*
 - a. *Is not a rental project which includes affordable rental and/or other community benefits, as required by the Interim Development Review Framework for rezoning applications that are inconsistent with the OCP, but consistent with the Transit Oriented Development Area legislation;*
 - b. *Would make 124 McInnes Street a locked-in lot, per s.120.123 of the City's Zoning Bylaw, precluding its redevelopment in alignment with the Official Community Plan and Transit Oriented Development Area legislation; and,*
 - c. *Does not include, nor have the applicants provided as requested, an acceptable approach to tenant assistance for the former tenants of 912 Queens Avenue, which was tenanted in March 2024 when the building was purchased, and as such tenant assistance was identified as a requirement in the April 2023 letter to the applicants.*
2. *THAT any subsequent development application for 912 Queens Avenue and 129-137 Tenth Street be required to: (1) also include 124 McInnes Street; (2) provide community benefits including but, depending on the scale of any future development proposal, not necessarily limited to, affordable rental housing units; and, (3) include a tenant assistance package that applies to tenants of all subject*

properties, including all former and/or current residents of 912 Queens Avenue and 124 McInnes Street, consistent with the City's endorsed policy and/or policy provisions for tenant assistance, including providing a legal right of first refusal to equivalent new units at the rents the tenants were charged at the time they vacate(d) their units, plus increases in rent permitted through the Residential Tenancy Act.

PURPOSE

To provide Council information regarding the proposed rezoning application at 912 Queens Avenue and 129-137 Tenth Street, and request that Council reject the application.

EXECUTIVE SUMMARY

A rezoning application has been received to develop an eight-storey, mixed-use building at 912 Queens Avenue and 129-137 Tenth Street, located in Tier 3 of the New Westminster Station Transit Oriented Area. The proposal includes 75 residential units (57 condo and 18 market rental units), five at-grade commercial units, and a small child care (274 sq. m. / 2,949.3 sq. ft.). Other community benefits in alignment with Council strategic priorities are not proposed.

A Pre-Application Review letter for development of 129 and 135 Tenth Street preceded the formal proposal and was provided to the applicant in April 2023. This letter provided explicit direction with respect to: 1) site consolidation with 137 Tenth Ave, 912 Queens Ave, and 124 McInnes Street, so as not to preclude build-out of the north end of the block; and, 2) the requirement to provide tenant supports should the four-unit rental building at 912 Queens Avenue be incorporated into the development. However, the subject rezoning application does not include:

1. Consolidation with 124 McInnes Street. The proposal would render this 280 sq. m. (3,018 sq. ft.) property a locked-in-lot per s. 120.123 of the City's Zoning Bylaw, precluding its redevelopment in alignment with the Official Community Plan and Transit Oriented Development Area legislation;
2. A Tenant Assistance Plan with respect to 912 Queens Avenue, which the City understands was tenanted in March 2024 at the time of purchase by the applicant, but was observed by the City to have been vacated prior to the City receiving the application in December 2024.

Through the formal application, staff have requested the applicant respond to the two issues highlighted above, however an acceptable approach has not been proposed.

Regarding alignment with City policies, the application is not consistent with City's Interim Development Review Framework, which was endorsed by Council in response

to the new provincial housing legislation. Per the Framework, as the application would require an Official Community Plan (OCP) amendment, and the applicant states their intention is to be consistent with Transit Oriented Development (TOD) Area legislation, the proposal would need to be rental only, with provision of affordable units, and/or other community benefits.

As such, staff are recommending that the rezoning application for the subject site be rejected, given that it:

- 1) Is not a rental project which includes affordable rental and/or other community benefits, as required by the Interim Development Review Framework for rezoning applications that are inconsistent with the OCP, but consistent with the Transit Oriented Development Area legislation;
- 2) Would make 124 McInnes Street a locked-in lot, per s. 120.123 of the City's Zoning Bylaw, precluding its redevelopment in alignment with the Official Community Plan and Transit Oriented Development Area legislation; and,
- 3) Does not include, nor have the applicants provided as requested, an acceptable approach to tenant assistance for the former tenants of 912 Queens Avenue, which was tenanted when the building was purchased in March 2024, and as such tenant assistance was identified as a requirement in the April 2023 letter to the applicants.

Staff further recommend that any subsequent development application for the subject sites, including rezoning or Heritage Revitalization (HRA), be required to: (1) include 124 McInnes Street; (2) provide community benefits including but, depending on the scale of any future development proposal, not necessarily limited to, affordable rental housing units; and, (3) include a tenant assistance package that applies to tenants of all subject properties, including all former and/or current residents of 912 Queens Avenue and 124 McInnes Street, consistent with the City's endorsed policy and/or policy provisions for tenant assistance, including providing a legal right of first refusal to equivalent new units at the rents the tenants were charged at the time they vacate(d) their units, plus increases in rent permitted through the Residential Tenancy Act. The applicant would be able to reapply to the City with a development application six months after Council's direction to reject the current application.

Height and density are not a factor in the staff recommendation.

BACKGROUND

Site Characteristics and Context

The subject site includes four properties and is located in the Brow of the Hill neighborhood within Tier 3 of the New Westminster Station Transit Oriented Area. There are three buildings on the site, all of which are currently vacant: a four unit

purpose-built rental apartment building built in 1958, a commercial unit with living quarters built in 1944, and a single detached house built in 1896. Additional site context information is included in Attachment 1 and a site context map provided below.

Figure 1: Site Context Map with 912 Queens Avenue and 129-137 Tenth Street in blue



124 McInnes Street

The proposed site wraps 124 McInnes Street, which has an approximate area of 280 sq. m. (3,018 sq. ft.) and is designated Residential – Multiple Unit Buildings in the Official Community Plan and located in Tier 3 of the New Westminster Station Transit Oriented Area. The property is improved with a single-detached house with secondary suite, built in 1897.

Pre-Application Review

A Pre-Application Review (PAR) for a 30-unit low-rise market rental apartment building was completed for two of the subject properties (129 and 135 Tenth Street) in April 2023. At that time, staff expressed concern regarding the project's potential to negatively impact development of the remainder of the block. In light of this, staff clearly directed the applicant to revise the site to: 1) acquire the remaining parcels, or 2) exclude 135 Tenth Street, which would have ensured a sufficiently sized, viable development parcel remained.

At the time of the PAR, all four units at 912 Queens Avenue were tenanted. Through the PAR letter, staff advised the applicant that, should the property be acquired, they would be expected to:

- Make arrangements for the temporary accommodation of tenants during construction; and,
- Permit tenants to return to the new development per the terms of their existing tenancy agreements.

This direction is consistent with the City's long-standing approach of negotiating additional tenant protection measures during the development review process for rezoning applications. In September 2024, staff reiterated to the applicant the City's tenant assistance expectations and advised that redevelopment of 912 Queens Avenue would be required to comply with the updated Tenant Relocation Policy.

POLICY AND REGULATIONS

Land Use Regulation

The subject site is located in Tier 3 of the New Westminster Station Transit Oriented Area, which supports residential buildings up to eight storeys and 3.0 Floor Space Ratio (FSR). While drawings indicate a height of eight storeys and overall FSR of 2.86, staff note that the proposal may exceed 3.0 FSR as the applicant has incorrectly calculated the project's floor area. The applicant has indicated they intend the application to be consistent with Transit Oriented Development (TOD) Area legislation.

The subject site is designated Residential – Multiple Unit Buildings in the Official Community Plan (OCP) which permits residential apartment buildings, and limits commercial uses to small-scale local-serving uses only.

Leaving aside height and density, given these are intended to be consistent with the provincial TOD Area legislation, the application is inconsistent with the OCP on the basis of amount of commercial use. An OCP amendment application would be required, but has not been submitted by the applicant.

Finally, as the site is zoned a combination of Single Detached Residential Districts (RS-2), Residential Commercial Dwelling Districts (RS-3), and Multiple Dwelling Districts (Low Rise) (RM-2), a rezoning would be required. A summary of relevant City policies and regulations is provided in Attachment 1.

Interim Development Review Framework and Interim Density Bonus Policy

The City is currently working to review and update its regulations, policies, and practices in light of wide ranging changes to housing legislation and financing growth, introduced by the Provincial government. While this work is underway, development applications are being processed in light of the Interim Development Review Framework.

Through the Framework, proposals that are inconsistent with the OCP but are permitted by the Transit Oriented Development Area legislation may only proceed if the project proposes to rezone to rental only zoning with a registered Housing Agreement and

other community benefits, such as affordable housing, are proposed. As this project proposes mixed strata and market rental housing and community benefits are not proposed, it does not comply with the Framework.

Zoning Bylaw – Locked-in-Lot Provisions

The Zoning Bylaw defines a locked-in-lot as one site or two or more contiguous sites in a residential zoning district which:

- a) is a corner property including a corner site having an area of less than 12,000 square feet (1,114.80 square metres) and a frontage of less than 78 feet (23.77 metres) on any street, or is a property not including a corner site having an area of less than 11,000 square feet (1,021.90 square metres) and a frontage of less than 70 feet (21.34 metres) on any street; and
- b) is built on, if at all, with buildings designed as single detached dwellings or duplexes, whether converted to multiple dwelling use or not; and
- c) is located between sites developed for other than single detached dwellings or duplexes, or is located between a site developed for other than single detached dwellings or duplexes and a street.

Section 170.1 further prohibits construction of any building or portion of a building that would create a locked-in-lot, in (R) Districts. Through the Zoning Bylaw, single detached and duplex residential districts are considered (R) Districts, while residential multi-family residential districts are considered (RM) Districts.

Tenant Relocation Policy and Update

The City's Tenant Relocation Policy was endorsed by Council in 2015 and applies to rezoning applications that involve demolition of six or more purpose-built rental units. In alignment with Council direction, the City has, through the development application review process, developed a practice of negotiating tenant protection measures above and beyond what is required through the Policy.

The City is currently in the process of updating the Tenant Relocation Policy (to be renamed the Tenant Assistance Policy) in accordance with the principles that Council indicated on March 24, 2025 should form the basis of the updated Policy ([report / minutes](#)). Staff note that a number of these principles would formalize tenant protection measures that had previously been negotiated with applicants, including provisions for tenants' temporary accommodation during redevelopment and their right to return to new units at existing rents.

The updated Policy is expected to apply to all projects involving redevelopment of purpose-built rental housing, regardless of the number of units proposed for demolition. Such applications will generally be expected to comply with the updated Policy, which is anticipated to be considered by Council in Fall 2025.

Draft Rental Replacement Policy

On January 14, 2019, Council directed staff to apply the Draft Rental Replacement Policy as an interim guideline to active development applications. This policy applies to all existing purpose-built market rental housing sites where redevelopment would remove more than six rental units. Applicants are expected to provide 100% secured rental units including 10% of units at below-market rates. The subject application contemplates demolition of four purpose-built rental units and as such, the Policy does not apply. However, Council may request replacement of rental housing at this or other sites, where entitlements above existing zoning are being sought.

PROJECT PROPOSAL

The current applications propose a mixed-use, eight-storey building with five at-grade commercial units and a small child care (274 sq. m. / 2,949.3 sq. ft.), and residential uses above. A total of 75 residential units are proposed, of which 57 would be stratified (76% of units) and 18 would be market rental (24% of units). Off-street vehicle and bicycle parking would be accommodated in a partially below-grade parkade. Community benefits in alignment with Council strategic priorities are not proposed.

DISCUSSION

Rental Only Zoning and Affordable Housing and/or Other Benefits Considerations

The proposal does not comply with the current OCP, including on the basis of land use. The applicant states the proposal is intended to be consistent with the provincial TOD Area legislation. The Interim Development Review Framework requires that projects inconsistent with the OCP, but permitted by TOD Area legislation proceed only where residential tenure would be restricted to secured rental housing, and affordable housing and/or other additional community benefits would be provided. Given that the majority of residential units are proposed to be stratified and that affordable housing and/or other public benefits are not proposed, the proposal does not comply with the Framework.

Locked-in-Lot Considerations

The April 2023 PAR letter to the applicants recommended consolidation of 124 McInnes Street into their proposal, along with 137 Tenth Avenue and 912 Queens Avenue; the latter two are included in the current proposal, while the former is not. The parcel at 124 McInnes Street, has an approximate area of 280 sq. m. (3,018 sq. ft.), which is roughly 50% smaller than a standard size single-detached property in New Westminster (557.4 sq. m. / 6,000 sq. ft.).

If the applicant's proposed consolidation were to proceed without including 124 McInnes Street, it would be rendered a "locked-in-lot" as defined by the Zoning Bylaw. This effectively means that development of the property in alignment with the OCP and TOD Area limits would not be possible. Though staff have advised the applicant of the issue,

and provided an opportunity through the formal rezoning application find a way to otherwise resolve the issue, the applicant has not proposed an approach to address this condition and the issue remains unresolved.

As such, staff recommends that Council not vary the locked-in-lot provisions, as: the development potential of 124 McInnes Street would be nullified; and, the proposed building on the subject sites, which would wrap this property, would likely also negatively impact the livability of existing residents.

Insufficient Tenant Assistance Considerations

The April 2023 PAR letter to the applicants recommended consolidation of 912 Queens Avenue into their proposal, and notified them of the City's expectation regarding tenant supports, which has been reiterated to them in ongoing discussions. In March 2024 the existing four-unit rental building at 912 Queens Avenue was purchased by the applicant. Based on information from the applicant and the City's records the building was, at that time, tenanted. However prior to receipt of the rezoning application in December 2024, staff observed that the building had been vacated by all tenants. A Tenant Assistance Plan was not provided with the rezoning application. Though staff have provided the applicant an opportunity through the formal rezoning application to provide such a plan, an acceptable response has not been provided.

Generally, staff do not consider the rezoning application to be consistent with the intent of the current Tenant Assistance Policy (formerly Tenant Relocation Policy), the principles that will form the basis of the updated Policy, or the explicit direction provided to the applicant through the 2023 PAR letter.

STAFF RECOMMENDATION

Staff are recommending that the rezoning application for the subject site be rejected, given that it:

- 1) Is not a rental project which includes affordable rental and/or other community benefits, as required by the Interim Development Review Framework for rezoning applications that are inconsistent with the OCP, but consistent with the Transit Oriented Development Area legislation;
- 2) Would make 124 McInnes Street a locked-in lot, per s. 120.123 of the City's Zoning Bylaw, precluding its redevelopment in alignment with the Official Community Plan and Transit Oriented Development Area legislation;
- 3) Does not include, nor have the applicants provided as requested, an acceptable approach to tenant assistance for the former tenants of 912 Queens Avenue, which was tenanted when the building was purchased in March 2024, and as such tenant assistance was identified as a requirement in the April 2023 letter to the applicants.

Staff further recommend that any subsequent development application for the subject sites, including rezoning or Heritage Revitalization (HRA), be required to: (1) include 124 McInnes Street; (2) provide community benefits including but, depending on the scale of any future development proposal, not necessarily limited to, affordable rental housing units; and, (3) include a tenant assistance package that applies to tenants of all subject properties, including all former and/or current residents of 912 Queens Avenue and 124 McInnes Street, consistent with the City's endorsed policy and/or policy provisions for tenant assistance, including providing a legal right of first refusal to equivalent new units at the rents the tenants were charged at the time they vacate(d) their units, plus increases in rent permitted through the Residential Tenancy Act. The applicant would be able to reapply to the City with a development application six months after Council's direction to reject the current application.

Height and density are not a factor in the staff recommendation.

FINANCIAL IMPLICATIONS

No financial impacts are anticipated to the City should Council choose to reject the rezoning application. Should the applications be permitted to proceed, financial considerations would be evaluated as part of the application review process.

INTERDEPARTMENTAL LIAISON

This development application been preliminarily reviewed by staff from the Planning and Development Department.

PROCESS AND NEXT STEPS

Should Council choose to reject the rezoning application, a new application for the subject sites could not be received for six months. Any subsequent application would be required to be consistent with municipal policy, including the updated Tenant Relocation Policy, and assembled in such a way so as not to preclude development of adjacent sites in line with the Official Community Plan and Transit Oriented Development Area legislation.

Further to this, staff recommend that any future rezoning or Heritage Revitalization Agreement application for the subject sites be required to provide affordable rental housing units as part of the proposal's community benefits package, and that these units be offered to former 912 Queens Avenue tenants through a legal right of first refusal, at rents paid by tenants at the time they vacated their units, plus increases in rent permitted through the Residential Tenancy Act.

OPTIONS

The following options are available for Council's consideration:

1. That the rezoning application at 912 Queens Avenue and 129-137 Tenth Street be rejected, given that the application:
 - a. Is not a rental project which includes affordable rental and/or other community benefits, as required by the Interim Development Review Framework for rezoning applications that are inconsistent with the OCP, but consistent with the Transit Oriented Development Area legislation;
 - b. Would make 124 McInnes Street a locked-in lot, per s.120.123 of the City's Zoning Bylaw, precluding its redevelopment in alignment with the Official Community Plan and Transit Oriented Development Area legislation; and,
 - c. Does not include, nor have the applicants provided as requested, an acceptable approach to tenant assistance for the former tenants of 912 Queens Avenue, which was tenanted in March 2024 when the building was purchased, and as such tenant assistance was identified as a requirement in the April 2023 letter to the applicants.
2. That any subsequent development application for 912 Queens Avenue and 129-137 Tenth Street be required to: (1) also include 124 McInnes Street; (2) provide community benefits including but, depending on the scale of any future development proposal, not necessarily limited to, affordable rental housing units; and, (3) include a tenant assistance package that applies to tenants of all subject properties, including all former and/or current residents of 912 Queens Avenue and 124 McInnes Street, consistent with the City's endorsed policy and/or policy provisions for tenant assistance, including providing a legal right of first refusal to equivalent new units at the rents the tenants were charged at the time they vacate(d) their units, plus increases in rent permitted through the Residential Tenancy Act.
3. That Council provide staff with alternative direction.

Staff recommends Options 1 and 2.

ATTACHMENTS

Attachment 1: Background Information

APPROVALS

This report was prepared by:
Wendee Lang, Senior Development Planner

This report was reviewed by:
Demian Rueter, Manager, Development Planning
Rupinder Basi, Deputy Director, Planning

This report was approved by:
Jackie Teed, Director of Planning & Development
Lisa Spitale, Chief Administrative Officer