



June 23, 2022

Mayor and Council  
City of Victoria  
1 Centennial Square  
Victoria, BC V8W 1P6

## **Re: Abkhazi Garden Rezoning Application**

Dear Mayor Helps, Council and Staff:

This letter summarizes the intent of our application to amend the zoning of Abkhazi Garden in order to protect this important community asset for the people of Victoria and further afield.

Primarily following direction outlined by the City Planning Staff (in the appended May 24, 2014, letter from City Staff), our aim is to:

- Downzone the lands at 1964 Fairfield Rd (Lot 1) and 507 Foul Bay Road (Lot 3) from the current 'RK-11 Townhouse District' and 'R1-G Gonzales Single Family Dwelling District' zoning to a site-specific zone and amend the OCP to redesignate the lands from 'Traditional Residential' to a 'Public Facilities, Parks and Open Space' designation.
- Obtain a parking variance to relax requirements to enable the Abkhazi Garden Tea House and the Abkhazi Garden to continue operating with zero on-site parking.
- Encourage the City to enable the transfer of a portion of the available unused density to an appropriate receiver site as part of the linked Rezoning application process for 1733-37 Fairfield Road.

## **Site History & Context**

In the year 2000, TLC acquired Abkhazi Garden from the developer who was planning to construct townhouses on the site. The local community supported TLC to raise the necessary funds and have been actively involved since that time volunteering in support of the Garden as docents, gate greeters, and gardeners.

In 2013 TLC entered a restructuring process to address its debts. Currently, Abkhazi Garden was subject to a mortgage, and TLC's creditors were pressing for repayment. These pressures put Abkhazi Garden at risk. TLC's volunteer Board and staff worked tirelessly for four years to extinguish all debt and secure TLC's future, and hence the future of the Garden. TLC's secured creditors were repaid in full. TLC's unsecured creditors were paid in full for debts of \$5,000.00



or less, and the remaining unsecured creditors were repaid 22.5% with a commitment to continue seeking revenue from the sale of densities from Abkhazi Garden for pro rata distribution to these 35 remaining creditors.

In 2017 TLC, with the support of generous donors, established an endowment held at the Victoria Foundation to support Abkhazi Garden in perpetuity. Over 50 volunteers support the Garden currently.

As the Garden is technically zoned to permit Townhouse development, in 2014 TLC worked with the City of Victoria to establish a process whereby the excess density could be transferred to another site and protect the site against redevelopment for residential use [correspondence with the City is included with the supplementary documents in our application package]. We therefore propose to downzone the Abkhazi Garden site Lot 1 (1964 Fairfield Road) and Lot 3 (507 Foul Bay Road) to reflect the existing use.

## **Excess Transferrable Density**

Lot 1 is currently zoned RK-11, Fairfield Townhouse District allowing density of 0.55:1.0 (lot area 5,662.31 sq metres) or 3,114.27 sq metres of residential floorspace. The amount of excess density that could be reallocated to a receiver site through density bonusing would be 3,114.27 sq metres minus the Gross Floor Area (GFA) of the existing house leaving 2,963.17 sq metres as net excess density.

Lot 3 is adjacent to the Garden and accessible from Foul Bay Road. It is currently used as a works area for the Head Gardener, with Greenhouse, composting, and plant propagation activities, and has no permanent or semi-permanent structures situated on it. This lot is currently zoned R1-G Gonzales Single Family Dwelling District, which has an FSR of 0.5:1.0 (lot area 798.04 sq metres) and a maximum floor area of 300.00 sq metres of vacant density. **In total, the combined sites have 3,263.17 sq metres of available excess density.**

**TLC would like to retain 5% (163.16 sq meters) of this excess density in order to allow for any future additions to the property, such as general storage, bike storage, waste container shelter, or other space that would complement the existing use and not change the primary use. Thus, the available excess transferable density from Lots 1 & 3 is 3,100.01 sq. metres.**

## **Heritage Preservation**

In addition to and concurrent with the downzoning, TLC aims to register the former home of Nicholas and Peggy Abkhazi as a Heritage designated building.

Section 3.4 of Victoria's Official Community Plan (OCP) cites *Inclusivity and Accessibility* as core values for the future of our city. Specifically, our ability to "Respect and respond to the perspectives, values and needs of Victoria's many individuals, groups and communities" speaks to these values. In addition, Section 3.8 emphasizes our need to build and maintain *Strong Local Communities*, which "Support and enhance the sense of place and community, and the uniqueness of Victoria's neighbourhoods". As such, Abkhazi Garden exemplifies these core values and is a neighbourhood treasure, nestled within a supportive community, and enjoyed by both locals as well as tourists from around the world who come to Victoria because of its gardens.

In addition, the OCP outlines *Placemaking* as a strategic directive for future growth and vibrancy in our city. As noted in the OCP, "*Victoria is vibrant and attractive with a unique character and sense of place. Victoria's cultural and natural heritage resources are protected and celebrated.*" Through this lens, the Abkhazi Garden is much more than a garden, as it holds a unique and powerful heritage as the former residence of Peggy and Nicholas Abkhazi. Abkhazi Garden has established a strong connection to the Country of Georgia, via the Georgian Ambassador to Canada. These ties resonate ever stronger today as we witness the invasion of Ukraine, or with the Ambassador's recent award of the Medal of Excellence to the TLC for preserving the culture and heritage so unique to Abkhazi Garden.

Further, Section 8 of the Gonzales Neighbourhood Community Plan speaks to *Heritage, Environment and Neighbourhood Features*, and seeks to outline opportunities in which to "*Identify and preserve heritage buildings, landscapes and streetscapes.*" As such, the Abkhazi Garden not only falls within the Proposed Heritage Conservation Area, the former residence of Peggy and Nicholas Abkhazi - a home designed by locally renowned architect John Wade - retains tremendous heritage significance, therefore it makes sense to apply a Heritage Designation to the property as this move aligns strongly with neighbourhood goals.

Lastly, Section 8.3.5 of the Gonzales Neighbourhood Plan highlights the importance of exploring ways in which to "*Encourage owners and builders to preserve and maintain, to the extent possible, neighbourhood features such as trees, fences, gardens and rock outcrops.*" Abkhazi Garden encompasses all these features, in particular highlighting the rocky outcrops that inspired Peggy to purchase the land, and the central feature in the landscaping of the garden and including a majestic grouping of Garry Oaks.

### **Heritage Designation Amendment**

With all the above under consideration, a heritage designation does already exist, however it was erroneously registered to Lot 3, so a new Heritage Designation needs to be prepared and attached instead to Lot 1.

Also, accompanying this application is a comprehensive Maintenance Plan, that was recently prepared by Don Luxton and Associates (June 2020), which clearly demonstrates the heritage values and heritage preservation activities planned for the infrastructure. Recent works have

included refinishing the hardwood floors and repainting the exteriors with the original heritage colours, supported by a City of Victoria Heritage grant.

We feel that these points further support our request for a Heritage Designation to be applied to the Abkhazi Garden property.

## **Parking Variance Request**

Special consideration in the form of a variance will be necessary to meet the anticipated parking requirements of the new zoning. Specifically, we are seeking relaxation of Zoning Bylaw requirements to increase our on-site vehicle parking from zero to up to eight (8) stalls, as well as the proposed Section 219 covenant to provide three (3) additional parking stalls on the abutting property at 507 Foul Bay Road (Lot 3). Instead, we are proposing to:

- Expand existing on-site bicycle parking infrastructure to increase available bike parking from 6 stalls to 14 stalls (some hanging)
- Commit to providing BC Transit Passes to all volunteers and staff working on site

## **Parking Conditions**

Abkhazi Garden has been in operation for 22 years with minimal disruption to the neighbours, and during this time the handful of instances of minor conflict between visitors parking off-site and neighbours have been dealt with and resolved immediately or have been avoided altogether.

Specifically, volunteers to the garden successfully manage to avoid parking related issues with the neighbours as they are well informed of appropriate street parking and actively pass this knowledge on to visitors. Volunteers and the Teahouse operator also avoid obstruction and noise related issues or concerns regarding idling tour buses, as they actively engage with both the bus companies and tour guides and inform them of appropriate places to park or load guests. To date we are proud to say we have always been able to respond promptly and respectfully to neighbour concerns.

Furthermore, on June 3rd and 4th of this year the Abkhazi Garden Site Manager completed an informal survey of the surrounding neighbourhood in an effort to seek input from neighbouring properties in regard to visitor parking and identify any concerns with how the Abkhazi Garden manages this.

## **Parking Survey**

Site Manager and Volunteer Coordinator, Cherie Miltimore went door to door with the Abkhazi Garden parking survey along Fairfield Road from Foul Bay Road to Queen Anne, Shotbolt Road and Foul Bay Road from Shotbolt to Fairfield Road. In total, Cherie visited 34 homes along Fairfield Road (16), Shotbolt Rd (13) and Foul Bay Road (5), where she collected 23 direct

responses at the door or by email, and left surveys in 11 remaining mailboxes from which we are still awaiting a response.

Details of this survey, including neighbour comments have been included with the supplementary documentation accompanying this application. However, a summary of the survey results are as follows:

- Out of 23 responses received, 16 (70%) residents had no issue with the current on-street parking for Abkhazi Garden.
- Of the 7 respondents who had any concerns with the parking situation at Abkhazi Garden, none of the residents had issues with Abkhazi Garden providing no on-site car parking. Instead, these residents were primarily concerned with traffic from vehicles and buses loading/unloading and temporarily waiting to transport visitors. These concerns could be easily resolved through a handful of traffic calming measures, as well as designating a temporary loading zone(s) along Fairfield Road.

### **Parking Demand & Alternative Transportation Initiatives**

Due to land and space constraints, there is no ability to provide on site car parking to the general public. However, this has never posed an issue to the Abkhazi Garden operations because most of our staff, volunteers, and visitors, bike, bus, or use alternative means to access the garden. Therefore, the demand for on-site vehicle parking has, and is expected to remain, extremely low.

This makes sense as the site is located on a key transit route connecting the Downtown, Fairfield and Oak Bay Avenue commercial districts via Fairfield Rd and Foul Bay Rd, and these transportation corridors are very cycling and pedestrian friendly.

In addition, we have noticed that the number of visitors arriving at the Garden by car-free modes of transport has steadily increased in recent years, as our patrons are becoming increasingly concerned with climate change (especially since experiencing local weather anomalies such as the recent heat dome or uptick in frequency and severity of regional forest fires). Therefore, we would expect demand for car-free transportation alternatives to increase even further with the addition of on and off-site infrastructure improvements that better cater to the needs and concerns of the people visiting the Garden.

Though the TLC has already installed a bike stand on site to accommodate bicycle parking for up to 6 volunteers and guests, it is regularly utilized to full capacity, so we would like to expand this bicycle parking infrastructure to 14 (some hanging). In addition, to encourage green transportation, TLC has committed to instituting a new program to provide free bus passes for our staff and volunteers.

Considering all the above, we feel that the shifting demands towards car-free transportation options, as well as the long history of the operation of Abkhazi Garden clearly demonstrates that parking needs have been adequately addressed. Therefore, there is no plan for future additions of car parking as this move would not increase visitation to the garden or teahouse and is not aligned with the climate leadership initiatives of the TLC or many of our visitors.

## **Green Building Features**

Considering that the Abkhazi Garden Teahouse is a small restaurant/retail space with low energy requirements, much of our sustainability initiatives stem from our landscape management practices. As such, our Head Gardener has worked hard to cultivate drought resistant plantings which help minimize our water needs.

One prime example of this was our initiative to re-seed all grass lawn areas with native, drought tolerant, grasses to reduce irrigation requirements. In addition, a water collection system has been installed to supplement the water needs of the plant propagation program [side note: this program also provides significant revenues via plant sales to support the maintenance costs of the garden]. The irrigation system also incorporates state of the art heads to control water output and minimize wastage.

Other sustainable landscaping practices include: the introduction of more permeable surfaces for pathways and driveway to improve water retention and reduce run off, as well as an extensive on-site organic waste and composting system which recycles valuable minerals and nutrients back into the garden.

Collectively, our minimal water and resource requirements, as well as a plethora of sustainable landscaping practices, ensure that the Abkhazi Garden operates with a low carbon footprint.

## **Conclusion**

In summary, the Abkhazi Garden is so much more than a beautiful greenspace. It is a treasured neighbourhood amenity with a rich back story and historic significance and deserves to be protected from future development so that it can be preserved and enjoyed for generations to come.

“Downzoning” the Garden lands to remove the maximum available buildable density, as well as redesignating them in the OCP from ‘Traditional Residential’ to a Public Facilities, Parks and Open Space’, would not only establish a designation more congruent with the Garden’s use, it would also create a necessary layer of protection in perpetuity.



That being said, the unused density from these lands does have value and we feel that rather than losing this value entirely through the rezoning process, we encourage the City to consider allowing a portion of this unused density to effectively be sold and transferred to another more appropriate site that could accept it. Despite density transfers being a common practice in other BC municipalities and cities around the world, we acknowledge that the City of Victoria does not have a system in place to support this. However, the City may be able to accomplish this through a parallel rezoning application and “transfer” a portion of the unused density by means of rezoning the receiver site to a new bonus density zone, which is permitted under Section 904 of the Local Government Act.

In this case we are proposing to accomplish the above, and are submitting this application to be considered in tandem with Aryze Development’s rezoning application for their proposed development of 1733, 1735, and 1737 Fairfield Rd.

Lastly, we understand that rezoning the Abkhazi Garden lands may trigger requests from City Staff to provide additional on-site parking, per the Zoning Regulation Bylaws. However, for the reasons outlined above, demand for on-site car parking has remained extremely low throughout our 22+ years of operations, and our zero on-site parking practices have had little to no impact on our neighbours during this period. At the same time, we are noticing a steadily increasing demand to accommodate car-free transportation alternatives such as on-site bicycle parking. For these reasons, we are seeking a parking variance to enable us to preserve existing green space and divert resources away from car-parking infrastructure towards the car-free transportation initiatives outlined above.

In closing, we would like to thank you for your time and consideration of this application, and we look forward to discussing our proposal in more detail throughout this approval process.

Warm regards,

A handwritten signature in black ink, appearing to read "Cathy Armstrong", with a stylized, flowing script.

**Cathy Armstrong**

Pronouns: she/her

**Executive Director**

**TLC The Land Conservancy of BC**

*We acknowledge and respect the lək'wəṇən peoples on whose traditional territory we live and work and the Songhees, Esquimalt and W̱SÁNEĆ peoples whose historical relationships with the land continue to this day.*





May 28, 2014

Mr. John Shields  
Director of Operations  
The Land Conservancy  
PO Box 50054 RPO  
Fairfield Plaza  
Victoria BC V8S 5L8

Dear Mr. Shields:

**Re: 1964 Fairfield Road, Abkhazi Gardens, RK-11 - Medium Density  
Attached Dwelling District**

Staff of the City of Victoria had discussions with Mr. Simon Joslin and Mr. Ian Atherton, as representatives of TLC, who requested that the City consider their proposal to transfer existing, unused density from the Abkhazi Gardens site to another site. Following those discussions, Mr. Joslin requested a letter from the City outlining a planning process that would be involved.

The City of Victoria does not have a heritage density transfer system where a "source site" (in this case, Abkhazi Gardens) would sell unused density and transfer it to a "receiver site" (i.e. another site or sites within the City) that could accept that density.

In absence of a heritage density transfer system, the City could consider parallel rezoning applications that could aim to achieve a similar outcome, as follows:

1. A rezoning application for the Abkhazi Gardens site would be submitted to the City, proposing to down-zone Lot 1 (1964 Fairfield Road) and Lot 3 (507 Foul Bay Road) to reflect the existing use of Lot 1 and the existing allowable floor area of the two lots respectively.
  - Abkhazi Gardens (1964 Fairfield Road) is currently zoned RK-11, Fairfield Townhouse District, which is accompanied by an allowable density of 0.55:1.0 (lot area 5,662.31 m<sup>2</sup>) or 3,114.27 m<sup>2</sup>. The amount of density that could be considered for transfer would be 3,114.27 m<sup>2</sup> minus the footprint area of the existing house (151.10 m<sup>2</sup>), leaving a residual residential floor area of 2,963.17 m<sup>2</sup> available for transfer from Lot 1.

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- 507 Foul Bay Road is currently zoned R1-G, Gonzales Single Family Dwelling District, which is accompanied by an FSR of 0.5:1.0 (lot area 798.04 m<sup>2</sup>) and with a maximum floor area of 300.00 m<sup>2</sup>, leaving a residual residential floor area of 300.00 m<sup>2</sup> available for transfer from Lot 3.

The combined residual floor area of both lots would be 3,263.17 m<sup>2</sup>.

2. A second rezoning application for a "receiver" site (or sites) would be submitted to the City, to run concurrently with the above rezoning application, proposing to rezone the site to a new bonus density zone, permitted under Section 904 of the Local Government Act. This type of zone would permit a base density allowance (reflected in current zoning), with opportunity for bonus density in an amount equivalent to the 3,263.17 m<sup>2</sup> of residual residential floor area if the following amenities are provided:
  - a. Confirmation of Heritage Designation of Abkhazi Gardens;
  - b. Heritage Revitalization Agreement to ensure rehabilitation and ongoing management of Abkhazi Gardens in accordance with heritage conservation principles;
  - c. Section 219 covenant that provides a parking easement on the abutting property located at 507 Foul Bay Road for three parking spaces for the benefit of the Abkhazi Gardens site; and
  - d. Section 219 covenant securing continued public access to the Gardens.

Should you wish to pursue this scenario, please follow this link to view the City's rezoning application process and application form:

<http://www.victoria.ca/EN/main/departments/planning-development/development-services/application-forms-and-information.html>

While this is a broad outline of a probable process, please note that the City has made no commitments with respect to this matter as City Council has the discretionary authority to approve or decline rezoning applications after assessment and being subject to the legislated planning process.

We hope that you will find this information helpful as you engage with potential third parties and consider if there are appropriate sites. If you have any questions, please contact Murray Miller, Senior Heritage Planner, at 250-361-0533.

Yours truly,



Deb Day  
Director, Sustainable Planning and Community Development Department

DED/ljm